

No. of 2019

VIRGIN ISLANDS
DISASTER MANAGEMENT ACT, 2019
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No. of 2019 Disaster Management Act, 2018

Virgin
Islands

I Assent

Governor
, 2019

VIRGIN ISLANDS

No. of 2019

A Bill for

An Act to provide for a comprehensive mechanism for disaster management in the Virgin Islands, to stipulate the rights and obligations of the Virgin Islands under the Agreement establishing the Caribbean Disaster Emergency Management Agency, to repeal the Disaster Management Act, 2003 (No. 3 of 2003) and other matters connected therewith.

[Gazetted , 2019]

ENACTED by the Legislature of the Virgin Islands as follows:

**PART I
PRELIMINARY**

1. (1) This Act may be cited as the Disaster Management Act, 2019. Short title and commencement.

(2) The provisions of this Act shall come into force on such date as the Governor may, by Proclamation published in the *Gazette* appoint.

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

“communications station” means a licensed transmitting and receiving organisation;

“comprehensive disaster management” means the management of all hazards through all phases of a disaster management cycle by prevention and

mitigation, preparedness, response, recovery and rehabilitation by public and private sectors, civil society and the general population;

“Council” means the National Disaster Management Council established under section 35;

“critical facilities” means those systems and assets, either physical or virtual which are so vital to the Virgin Islands that their incapacity or destruction would have a debilitating impact on national security, national economic security, and national public health and safety;

“declaration of a disaster” means a declaration of a disaster under section 59;

“Department” means the Department of Disaster Management established under section 8;

“Director” means the Director of Disaster Management appointed under section 8;

“disaster” means a progressive or sudden, widespread or localised natural or human occurrence which

(a) causes

(i) death, injury or disease;

(ii) damage to property, infrastructure or the environment; or

(iii) disruption of life to a community; and

(b) is of a magnitude that exceeds the ability of those affected by the disaster to cope with its effects using only their own resources;

“disaster area” means any specific area in or the entire Virgin Islands that is affected or is imminently likely to be affected, by any fire, flood, landslide, earthquake, disease or other calamity;

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“disaster emergency” means a state of emergency declared by the Governor pursuant to section 27 of the Virgin Islands Constitution Order, 2007 or section 2 of the Emergency Powers (Disasters) Ordinance;

“disaster management” includes planning for and responding to disasters, by carrying out both pre and post disaster activities which refer to both the risk and the consequences of a disaster;

“disaster preparedness” means measures to be taken to reduce, to the minimum level possible, the loss of human lives and other damage through the organisation of prompt and efficient actions of response and rehabilitation;

“disaster risk” means the potential loss of life, injury, or destroyed or damaged assets which could occur to a system, society or a community in a specific period of time, determined probabilistically as a function of hazard, exposure, vulnerability and capacity;

“disaster risk management” is the application of disaster risk reduction policies and strategies to prevent new disaster risk, reduce existing disaster risk and manage residual risk, contributing to the strengthening of resilience and reduction of disaster losses;

“early warning system” means the set of capacities needed to generate and disseminate timely and meaningful warning information to enable individuals, communities and organisations threatened by a hazard to prepare and to act appropriately and in sufficient time to reduce the possibility of harm or loss;

“emergency” means any instance for which in the determination of the Director assistance is needed

- (a) to supplement the efforts and capabilities to save lives and to protect property and public health and safety; or
- (b) to lessen or avert the threat of a catastrophe in any part of the Virgin Islands;

“fund” means the Emergency Disaster Fund established under section 66;

“hazard” means a dangerous phenomenon, substance, human activity or condition that may cause loss of life, injury or other health impacts, property damage, loss of livelihood and services, social and economic disruption or environmental damage;

“hazard alert” means a watch, warning, notification or announcement transmitted through an officially designated notification process advising persons of

- (a) the existence of a threat of a hazard to the Virgin Islands;
- (b) the nature and level of the threat (marine or land); and
- (c) the specific actions required to be taken;

“hazard inspector” means a hazard inspector appointed pursuant to section 11;

- “hazard mitigation” means measures taken to reduce the loss of life, livelihood and property by disasters, either by reducing vulnerability or by modifying the hazard, where possible;
- “listed premises” means premises listed on the shelters list;
- “marine shelter” means a place giving protection from an emergency or disaster to vessels established and maintained under section 23;
- “marine shelter master” means a marine shelter master referred to in section 23(7);
- “National Disaster Management Plan” means the Plan prepared under section 16;
- “National Emergency Operations Centre” means a National Emergency Operations Centre established under section 20;
- “National Early Warning and Multi-Hazard Alert System” means the National Early Warning Multi-Hazard Alert System established under section 57;
- “Regulations” means Regulations made under section 78;
- “shelters list” means the list of premises established by the Director under section 23;
- “shelter manager” means a shelter manager appointed or designated in accordance with section 11;
- “shelter officer” means a shelter officer designated under section 23;
- “state of public emergency” means a time period or circumstance under which the well-being or security of the Virgin Islands is threatened by war, invasion, general insurrection, public disorder, natural disaster, other public emergency or calamity and the declaration of a public emergency is considered necessary by the Governor to maintain or restore peace and order;
- “statutory board” means any board, commission, committee, council or other like body established by or under an enactment,
- “statutory body” means an entity which is established by or under any Act and which is governed by a statutory board;
- “zonal committee” means a zonal committee established under section 45;

(2) For the purposes of this Act, a hazard alert exists when the Governor makes a declaration of a disaster under section 59.

3. (1) This Act applies concurrently with any other law which relates to disaster management. Application.

(2) Where there is any conflict or inconsistency between the provisions of this Act and the provisions of any other law the provisions of this Act shall prevail.

4. The Agreement establishing the Caribbean Disaster Emergency Management Agency set out in the Schedule 1 has the force of law in the Virgin Islands. Force of law.

PART II ROLE OF GOVERNOR

5. (1) Where the Director reports to the Governor

Declaration of
Disaster area or
hazardous area.

- (a) the existence of any local condition in any part of the Islands tending to endanger public safety, and there are no powers under any law other than this section whereby such condition may be removed or guarded against; or
- (b) that any part of the Islands appears to be threatened with or affected by a natural or technological hazard and that measures apart from, or in addition to, those specifically provided for in this Law, should be taken promptly, the Governor after consultation with the Premier may by Order declare that part of the Islands to be a disaster area or hazardous area and direct the enforcement of any measures recommended by the Director or any other measures that the Governor thinks expedient for removing or otherwise guarding against any such condition and the probable consequences thereof or mitigating as far as possible, any such hazard.

(2) An Order made under subsection (1) may contain a direction that the disaster area or hazardous area be evacuated by a specified time and in accordance with such procedures, if any, as may be specified therein.

- (3) Any Order made under this section
- (a) may extend to the Islands as a whole or to such part thereof or to such particular places as may be specified therein;
 - (b) shall, subject to subsection (4), remain in force for such period as may be specified therein;
 - (c) may prevent entry into any such area for a specified time and in accordance with specified procedures; and
 - (d) may be published by announcement in any medium of mass communications available within the Islands and posted in a conspicuous place outside every police station and post office in the Islands.

(4) An officer or employee of the Department or any other person authorised in writing in that behalf by the Director (in this section referred to as an “authorised officer”) may at all times enter any premises for the purpose of ensuring compliance with the provisions of any Order made under this section, and shall produce to the person in charge of the premises, the authority for such entry.

(5) Where the Director is satisfied that it is necessary for the performance of assigned duties under this Law to do so, the Director or an authorised officer may enter any premises with or without the consent of the owner or occupier, and take such action as the Director or such authorised officer may consider necessary in the public interest.

(6) The Director shall provide staff, volunteer organisations and each authorised officer who is not a police officer, with a distinctive badge, tag or other identification device which may conveniently be carried while engaged in the performance of their duties under this section.

(7) An authorised officer who exercises a power under this section shall provide identification as an authorised officer to any person in control of the premises to be so entered into, by the production of an authorised officer’s badge, tag or other identification device issued under subsection (6) and shall explain the purpose of the entry.

6. The Governor shall in consultation with the Premier perform the following duties Duties of the Governor.

(a) cause to be prepared a comprehensive plan and programme for disaster management in the Virgin Islands which shall be integrated into and coordinated with other plans and programmes of the Government and which shall include

- (i) mitigation of injury and damage caused by hazards;
- (ii) emergency relief;
- (iii) identification of areas, people, building and infrastructure particularly vulnerable to hazards;
- (iv) taking measures for buildings and other development standards, safety measures for securing permanent structures and other mitigation measures designed to eliminate or reduce disasters or the impacts of hazards;
- (v) authorisation of the erection or other construction of temporary works designed to mitigate danger, damage or loss from other hazards, and the procedures therefore;
- (vi) organisation of personnel and establishment of chains of command;
- (vii) coordination of emergency management activities;
- (viii) activation and management of mutual aid agreements;
- (ix) any other matter he or she considers necessary or expedient;

(b) in accordance with the Virgin Islands Constitution Order, 2007, declare a period of public emergency by U.K. S.I. 2007
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proclamation published in the *Gazette* or in a newspaper published in the Virgin Islands, or if it is posted in prominent public places or announced on the radio;

- (c) in accordance with the plan and programme for disaster management in the Virgin Islands, and out of funds appropriated for these purposes, procure and requisition supplies, medicines, materials and equipment, to institute training programmes and public information programmes;
- (d) to take all preparatory steps, including the partial or full mobilisation of emergency services;
- (e) to ensure the furnishing of adequately trained and equipped forces for disaster response and recovery;
- (f) out of funds appropriated for that purpose, to carry out studies and surveys of industries, resources and facilities in the Virgin Islands as may be necessary to ascertain the capabilities of the Virgin Islands for emergency management phases of mitigation, preparedness, response and recovery and to plan for the most efficient emergency use thereof;
- (g) submit to the National Security Council for its consideration, any findings submitted to him or her pursuant to section 12(1)(s).

PART III ROLE OF THE PREMIER

Functions of the Premier.

- 7. The Premier shall perform the following functions
 - (a) make recommendations to ensure that adequate structural and non-structural mitigation measures are integrated into building standards, guidelines, laws and regulations to support disaster risk reduction;

- (b) establish and maintain a National Recovery Management Framework in keeping with the comprehensive plan and programme for disaster management in the Virgin Islands;
- (c) serve as the Co-Chairperson of the National Disaster Management Council or the Chairperson in the absence of the Governor;
- (d) serve as a member of the National Security Council, ensuring that the Governor is advised of all matters relating to internal security;
- (e) submit requests to the Governor for the convening of Meetings of the National Security Council as deemed necessary;
- (f) advise and make recommendations to the Cabinet on the development of a National Comprehensive Disaster Management Policy aimed at ensuring comprehensive disaster management by all Ministries, Departments, statutory bodies, Zonal Disaster Management Committees, private sector entities, non-governmental organisations, faith-based organisations, communities and individuals;
- (g) consult the Governor on recalling a dissolved House of Assembly in the case of a declaration of a state of emergency in accordance with Section 85 of the Virgin Islands Constitution Order, 2007; and
- (h) request relevant information as deemed necessary from any department of government in respect of matters relating to disaster management, internal security and related issues.

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PART IV

DEPARTMENT OF DISASTER MANAGEMENT

8. (1) There is established a Department of Disaster Management which shall be headed by the Director.

Establishment of
Department of
Disaster
Management.

(2) The Governor, acting in accordance with section 92 of the Virgin Islands Constitution Order, 2007 shall appoint a suitably qualified person to be the Director of the Department. U.K. S.I. 2007 No. 1978

Object of the Department.

9. The principal objects of the Department are to advance a comprehensive disaster management system by facilitating, monitoring and coordinating the development and implementation of integrated disaster management systems in the Virgin Islands.

Powers of the Department.

10. The Department shall have power for the purpose of carrying out its functions under the Act, to do all such acts as appear to it to be requisite, advantageous or convenient for or in connection with the carrying out of its functions or to be incidental to the proper discharge and may carry on any activities in that behalf either alone or in association with any other person or body.

Other staff of the Department.

11. (1) The Director shall be assisted by such number of other public officers or other persons as may be appointed or designated by the Governor including hazard inspectors, a deputy director or other public officers appointed or designated to discharge the functions of hazard inspectors or shelter managers.

(2) The Department shall annually, provide each hazard inspector with a distinctive badge, tag or other form of identification which may conveniently be carried by each hazard inspector while engaged in the performance of his or her duties under the Act.

Functions of the Department.

12. (1) The Department is responsible for

- (a) developing and implementing policies and programmes to achieve and maintain an appropriate state of national preparedness for managing all emergency situations which may affect the Virgin Islands;
- (b) encouraging and supporting comprehensive disaster management in the Virgin Islands in collaboration with community based organisations, private agencies and voluntary agencies, respectively;
- (c) the implementation of laws and authorities governing disaster management;

- (d) hazard identification and risk assessment;
- (e) hazard mitigation;
- (f) recovery planning;
- (g) resource management;
- (h) preparation of functional national disaster management plans;
- (i) directing, controlling and co-ordination of disaster management;
- (j) communications and warning technology for disaster management;
- (k) operations and procedures of disaster management;
- (l) the logistics and facilities for disaster management;
- (m) training the public, private and emergency response personnel;
- (n) assessment and evaluation exercises of emergency response plans and capabilities in the Virgin Islands;
- (o) public information and education on disaster management in the Virgin Islands;
- (p) analysing pertinent data on past disasters or hazard impacts in order to update information databases and the National Disaster Management Plan;
- (q) ensuring that provisions under this Act and Emergency Powers (Disasters) Ordinance are enforced when necessary; Cap. 239
- (r) providing and periodically reviewing risk assessment data and maps of the Virgin Islands;

- (s) developing the Critical Infrastructure Protection Review Report and presenting the findings to the Governor;
- (t) preparing the National Disaster Management Strategy, Programming Framework, Monitoring, Evaluating and Reporting mechanism;
- (u) assuming control of the National Emergency Operations Centre in accordance with guidelines outlined in the National Disaster Management Plan in the event of a hazard alert or a disaster;
- (v) liaising with local, regional and international bodies to develop mutual aid programmes and cooperation and to foster better working relations to support the advancement of disaster management in the Virgin Islands;
- (w) issuing hazard data, hazard information, watches, warnings and alerts within the Virgin Islands; and
- (x) developing the annual Statement of Preparedness Report for submission to the Council.

(2) The Department shall, to the greatest possible extent, consistent with the performance of its functions under this Act, consult and co-operate with Ministries, other departments of government, disaster management committees, communities, statutory bodies, private sector entities, non-governmental organisations and faith-based organisations having functions related to, or having aims or objects related to those of the Department.

Functions of the Director.

13. (1) The Director shall subject to section 14 perform the following sections

- (a) identify hazards and the assessment of risks to persons, public and private property and structures;
- (b) ensure that resources and mitigation activities are prioritised in order to lessen the effects of disasters to the

population, communities, businesses, industries and government;

- (c) develop systematic methodologies for the prompt and effective identification, acquisition, distribution, accounting, and use of personnel, facilities, and major items of equipment for essential emergency functions;
- (d) develop a comprehensive disaster management strategy and programming framework for the Virgin Islands;
- (e) direct, control and co-ordinate prephase, transphase, and postphase of the emergency response process;
- (f) ensure that the appropriate communications and warning technology are established and maintained;
- (g) prepare and issue emergency messages including alerts, watches and warnings for all hazard;
- (h) develop, coordinate and implement operational plans and procedures which are fundamental to effective disaster response and recovery;
- (i) identify, distribute, and account for services, resources, material, and facilities which are required to adequately support disaster management activities;
- (j) assess, develop, and implement training and educational programmes for public and private officials and emergency response personnel;
- (k) develop a programme of regularly scheduled exercises, designed to assess and evaluate the emergency response plans and capabilities of the Virgin Islands;
- (l) provide information to the public on the nature of hazards, protective measures and awareness of the responsibilities of Government and citizens in an emergency or disaster; and

- (m) develop fiscal and administrative procedures to support the disaster management programme of the Virgin Islands.

(2) The Director may delegate any of his or her functions under this Act to employees of the Department.

Annual Report.

14. (1) The Director shall, within three months after the end of each year prepare a report on the activities of the Department for the preceding year, and shall transmit the report to the Governor who shall present the report to Cabinet for approval and Cabinet shall cause the report to be laid before the House of Assembly.

(2) The report prepared under subsection (1) shall include a disaster management policy review relating to mitigation of, preparedness for, response to and recovery from emergencies and disasters in the Virgin Islands.

(3) Where the disaster management policy review is approved, with or without amendment by Cabinet, the Director shall, after the report referred to in subsection (1) is laid before the House of Assembly, cause the policy review so approved to be published on the website of the Department and a newspaper of wide circulation in the Virgin Islands.

Directions by the Governor to the Director.

15. The Governor may give directions to the Director of a special general character in relation to the policy to be followed in the exercise of the power conferred and the duties imposed on the Director under this Act.

National Disaster Management Plan and other plans.

16. (1) The Director shall prepare a Plan to be known as the National Disaster Management Plan comprising the statement of the contingency arrangements for responding to the threat or event and aftermath of an emergency or disaster is such as to prompt the issuance of an alert, a declaration of a disaster or a declaration of a state of emergency.

(2) The Director shall submit the Plan to the Governor who shall cause it to be reviewed by the Council and after the review, the Governor shall submit the Plan and the recommendations of the Council for the approval of Cabinet.

(3) The Plan shall include

- (a) procedures related to disaster management and continuity of operations by Ministries, departments of Government,

statutory bodies, critical facility agencies and other organisations or persons who perform functions under this Act;

- (b) procedures for coordinating the implementation of the Plan and implementation of disaster response and continuity of government plans by persons and bodies in paragraph (a);
- (c) procedures for informing persons in paragraph (a) and the public in the Virgin Islands and elsewhere of the existence of a hazard alert, a disaster, a declaration of state of emergency or the existence of an emergency or disaster;
- (d) procedures for preparing and maintaining inventories of services, systems and supplies for the preparedness for response to emergencies and disasters;
- (e) procedures for mobilising services and systems for the preparedness for and response to emergencies and disasters during a hazard alert or a disaster including procedures for manning of Emergency Operations Centres;
- (f) procedures for protecting and restoring communications, both nationally and internationally, during a hazard alert or a disaster;
- (g) procedures for procuring, releasing, distributing and replenishing emergency stores of supplies of food, water, clothing and medical supplies during a hazard alert or a disaster;
- (h) procedures for safeguarding against fire, epidemics and pollution during a hazard alert or disaster;
- (i) procedures for providing shelter for persons during a hazard alert or a disaster;
- (j) procedures to apply in the event that the evacuation of the residents of an area is considered to be necessary if there is a disaster;

- (k) procedures established by the Minister responsible for health and social development for safeguarding against epidemics during an alert, a declaration of a disaster, a declaration of a state of emergency or in the event or the aftermath of an emergency or a disaster;
- (l) procedures established by the Chief Fire Officer for effecting search and rescue operations and safeguarding against fires during an alert, a declaration of a disaster, a declaration of a state of emergency or in the event or the aftermath of an emergency or a disaster;
- (m) procedures for cooperation with international organisations and governments of countries outside the Virgin Islands during an alert, a declaration of a disaster, a declaration of a state of emergency or in the event or the aftermath of an emergency or a disaster;
- (n) procedures for accepting and facilitating the distribution of volunteer services and relief supplies during an alert, a declaration of a disaster, a declaration of a state of emergency or in the event or the aftermath of an emergency or a disaster;
- (o) procedures to apply in the event that the requisitioning of private property is considered desirable during a hazard alert, a declaration of a disaster, a declaration of a state of emergency or in the event or the aftermath of an emergency or a disaster including procedures for assessing and paying compensation;
- (p) procedures established by the Commissioner of Police for protecting life and property from the dangers of looting and riotous behaviour during an alert, a declaration of a state of emergency or in the aftermath of an emergency or a disaster;
- (q) roles and responsibilities of Ministries, statutory bodies, disaster management committees and other stakeholders in respect of the measures specified in paragraphs (n) to (p);

- (r) procedures for prioritising recovery interventions; Search and rescue operations; Continuity of government operations;
 - (s) procedures for maintaining a national disaster information system;
 - (t) any other procedures to be followed during an alert, a declaration of a disaster, a declaration of a state of emergency or in the event or the aftermath of an emergency or a disaster;
 - (u) procedures established by the Department of Waste Management for debris management and cleanup efforts;
 - (v) procedures for the emergency transportation of affected persons leaving the disaster area, and for accessing transportation services to allow for the execution of emergency response activities; and
 - (w) procedures for emergency communications including protocols to be followed during the issuance of emergency messages including alerts, watches and warning.
- (4) The Director shall prepare a strategy which shall contain
- (a) measures for the prevention of disasters and mitigation of their effects;
 - (b) measures to be taken for the integration of risk reduction and mitigation in development plans and projects, nationally and sectorally;
 - (c) measures to be taken for disaster preparedness and capacity building to effectively respond to the threat of a disaster or an emergency;
 - (d) measures to be taken to recover from the impact of hazards.

(5) The Director shall prepare other plans which must contain details of arrangements under the coordination of the Director for matters relating to hazard mitigation and risk assessment.

Communications
link.

17. (1) The Director shall

(a) develop and maintain a directory of Ministries, departments of government, statutory bodies, private sector entities, non-governmental organisations and faith-based organisations and associated emergency contacts for these institutions that are involved in disaster management in the Virgin Islands showing

(i) their names, telephone, satellite and fax numbers and physical, postal and electronic addresses;

(ii) particulars of their involvement in disaster management;

(iii) the nature, capacity and location of emergency and relief services under their control; and

(b) establish effective communication links with contact persons identified by the Ministries, departments of government, statutory bodies, private sector entities, non-governmental organisations and faith-based organisations.

(c) annually update the directory established in (a) above.

(2) The directory shall include particulars of

(a) Ministries, departments of government and statutory bodies involved in disaster management;

(b) non-governmental organisations involved in disaster management;

(c) disaster management experts in the Virgin Islands;

- (d) private sector entities with specialised equipment, skills or knowledge relevant to disaster management;
- (e) private sector voluntary agencies involved in disaster management;
- (f) foreign non-governmental organisations and international organisations involved in disaster management in the Virgin Islands; and
- (g) faith-based organisations.

(3) The Director shall, in addition to subsection (1) develop and maintain an emergency contact list showing the names of the organisations and designated persons, telephone numbers, satellite phone numbers, fax numbers and electronic addresses and any other relevant contact information and the contact list shall be updated annually.

(4) The Director shall establish communication links with foreign disaster management agencies, including institutions performing functions similar to those performed by the Department, to exchange information and to have access to international expertise and assistance in respect of disaster management.

18. (1) The Director shall

Disaster management information system.

- (a) collect information on all aspects of disasters and disaster management;
- (b) process and analyse the information collected under paragraph (a);
- (c) develop and maintain an electronic database; and
- (d) take steps to disseminate such information, especially to communities that are vulnerable to disasters.

(2) The electronic database referred to under subsection (1)(c) shall contain extensive information concerning disasters that occur or may occur in the Virgin Islands and disaster management issues, including information relating to

- (a) phenomena, occurrence, and circumstances that cause or aggravate disaster;
- (b) risk factors underlying disasters and ways and means to reduce such risks;
- (c) recurring occurrences that result in loss, but which are not classified as disasters as defined in this Act;
- (d) prevention and mitigation;
- (e) early warning systems;
- (f) areas and communities that are particularly vulnerable to disasters;
- (g) indigenous knowledge relating to disaster management;
- (h) the directory under section 17 and the names and particulars of contact persons;
- (i) emergency response resources and capacity in the Ministries, departments of government and in the non-government sectors, including the location and size of, and other relevant information relating to:
 - (i) police stations;
 - (ii) hospitals, clinics and other health institutions;
 - (iii) emergency medical services;
 - (iv) school, church and public buildings and other facilities that could be used as emergency shelters or hospitals in the event of a disaster;
 - (v) fire-fighting services; and
 - (vi) airports, airstrips, harbours and seaports;

- (j) emergency response resources and capacity in neighbouring countries and relevant international relief agencies;
- (k) emergency preparedness in the different Ministries and departments of government; and
- (l) research and training facilities for disaster management disciplines.

(3) The Director shall take reasonable steps to ensure that the database is electronically accessible to any person upon payment of the prescribed fee.

(4) Subsection (3) does not prevent the Director from

- (a) establishing security safeguards to protect the database from abuse; and
- (b) classifying parts of the database as restricted areas in consultation with the Governor, and limiting access to those parts authorised by the Governor.

19. (1) The Director shall give guidance to Ministries, departments of government, statutory bodies, private sector entities, non-governmental organisations and faith-based organisations, communities and individuals relating to assessment and prevention or reducing the risk of disasters, including

Prevention,
Mitigation and
Recovery.

- (a) ways and means of
 - (i) levels of risk;
 - (ii) assessing the vulnerability of communities and households to disasters that may occur;
 - (iii) increasing the capacity of communities and households to minimise the risk and impact of disasters that may occur; and
 - (iv) monitoring the likelihood of, and the state of alertness to disasters that may occur;

- (b) the development and implementation of appropriate prevention and mitigation methodologies;
- (c) the integration of prevention and mitigation methodologies with development plans, programmes and initiatives; and
- (d) the management of high-risk developments.

(2) The Director shall promote formal and informal initiatives that encourage risk-avoidance behaviour by Ministries, departments of government, statutory bodies, zonal committees, non-governmental organisations and faith-based organisations, communities and individuals.

(3) The Director shall promote formal initiatives that encourages the development of a National Disaster Recovery Framework that enables effective recovery support to restore, redevelop and revitalize the health, social, economic, natural and environmental fabric of the Territory and build resilience in accordance with the National Disaster Management Plan.

Emergency
Operations
Centre.

20. (1) The Director of the Department of Disaster Management shall serve as the Director of the National Emergency Operations Centre.

(2) The Director shall be responsible for the establishment and maintenance of a National Emergency Operations Centre and where necessary, supplementary emergency operations centres, whether distributed according to geographical location or any other factor.

(3) The National Emergency Operations Centre serves as the headquarters of the activities undertaken in response to a hazard alert or a disaster.

(4) The Governor shall where necessary designate another building to be used as the National Emergency Operations Centre following a disaster.

(5) The National Emergency Operations Centre shall comprise an executive group as well as five sections which shall operate under the Incident Command System.

(6) The five sections referred to in subsection (4) include command, logistics, operations, planning; and finance and administration.

(7) The executive group/level shall exercise the overall direction and control of disaster operations.

(8) The Command section shall coordinate

- (a) the emergency or disaster response and relief efforts and activities as directed by the Director;
- (b) damage assessments; and
- (c) invitations to all House of Assembly members on behalf of the Governor, to participate in briefings.

21. The principal object of the National Emergency Operations Centre is to coordinate the efforts among lead agencies in disaster response with a view to minimising duplication and to achieve the ultimate goal of saving life and reducing human suffering by

Object of the National Emergency Operations Centre.

- (a) mitigating the negative effects of hazard impacts or major incidents;
- (b) disseminating official information;
- (c) managing disaster relief;
- (d) providing relevant briefings and reports to Cabinet;
- (e) coordinating on-the-ground efforts of external agencies in emergency or disaster response; and
- (f) providing a smooth transition to recovery if required.

22. (1) The functions of the National Emergency Operations Centre are

Functions of the National Emergency Operations Centre.

- (a) to provide centralised coordination and control of emergency or disaster response and operations on a twenty-four hour per day basis if necessary;
- (b) to keep the public informed of the emergency or disaster in a timely and factual manner through briefings and bulletins;

- (c) to control and coordinate actions generated as a result of orders from the executive group;
- (d) to provide direction and support to the incident commander;
- (e) to arrange for logistic support to disaster site personnel;
- (f) to plan ahead to meet the requirements that will follow a disaster;
- (g) to ensure the efficient movement, assimilation and dissemination of information from disaster sites to the resource managers and to the public;
- (h) to issue hazard alerts, watches and warnings and give direction to the public which may necessitate the installation of remote broadcast connections through radio and television stations;
- (i) to ensure that matters of national security are implemented and maintained during a period of national emergency;
- (j) to issue special bulletins or newsletters, advisories, watches, warnings, all clear, statements;
- (k) to maintain display devices within the National Emergency Operations Centre so that agencies can quickly comprehend what actions have been taken and what resources are available;
- (l) to ensure the timely preparation and dissemination of situation reports which shall be shared with the Caribbean Disaster Emergency and Management Agency and other regional partners;
- (m) to maintain official logs, other records and reports including the decision extracts from the executive group;

- (n) to give directives to public officers and guidance to the public if necessary;
- (o) to prioritise and organise requests for external assistance;
- (p) to co-ordinate external assistance as it is received and distribute through a national logistics support system;
- (q) to function as the local point of contact for regional and international organisations;
- (r) to be responsible for the implementation of emergency policy, strategy and programmes through supervision and coordination of all agencies involved in emergency or disaster management;
- (s) to establish the damage assessment needs analysis team to prepare a preliminary impact assessment report(s); and
- (t) to establish the incident action plan to guide response operations.

(2) In order to carry out the function under subsection (1)(h) the National Emergency Operations Centre may make advance arrangements with radio stations, television stations, cable and satellite providers, internet radio stations, cellular and land line communication providers.

(3) The Director may establish special security at the National Emergency Operations Centre depending on the nature of the emergency or disaster.

(4) A situation report required under subsection (1)(k) shall include a list of casualties, the physical damage experienced, welfare assessment and the needs of the Virgin Islands.

(5) An After Action Review shall be required under subsection (1)(k) to analyse the response operations focusing on performance standards.

23. (1) The Director shall, after consultation with the Director of Public Works and the Chief Environmental Health Officer, establish and maintain a list Shelters.

of premises available and suitable for use as shelters, (in this section referred to as the “shelters list”) including, after consultation with the Director of Shipping Registry, marine shelters for use during a hazard alert, declaration of an emergency or in the event or the aftermath of an emergency or a disaster.

(2) The Director shall

- (a) distinguish between shelters in Crown occupation and any other shelter;
- (b) list the facilities available at each shelter;
- (c) indicate the suitability of each shelter for use during an alert, a declaration of a disaster, a declaration of a state of emergency or in the event or the aftermath of an emergency or a disaster;
- (d) indicate the periods for and the conditions under which the shelter would be suitable for use in the instances in paragraph (c).

(3) The Director shall subject to subsection (4) assign to each shelter a shelter manager charged with the responsibility of managing the shelter during any period where the premises are used for that purpose and may designate shelter officers to assist any shelter manager.

(4) Where a shelter is not in Crown occupation, the designation of shelter managers or shelter officers for those premises shall be subject to the agreement of the owner of the shelter.

(5) The owner or occupier of any premises listed as a shelter is not liable, to any person taking shelter on the premises for any injury to that person or damage to or loss of the person’s property, which injury, damage or loss arises from the condition of the premises, where the use of the premises for shelter was within the listed limits of suitability of the premises under subsection (2)(c).

(6) The provisions of subsection (5) are without prejudice to any other right or remedy which the person suffering damage or loss may have

- (a) other than a right or remedy against the owner or occupier of the premises; or
- (b) against the owner or occupier of the premises for damage or loss arising otherwise than from the condition of the premises.

(7) The Director shall, after consultation with the Director of Virgin Islands Shipping Registry, assign to premises listed as a marine shelter in the shelter list, a marine shelter master charged with the responsibility of managing the premises during any period where the premises is being used as a shelter and may assign marine shelter officers to assist any marine shelter master.

- (8) The Director shall, in the case of the marine shelters list indicate
- (a) the maximum draft and length of boats and other vessels allowed in the listed place;
 - (b) the types of boats and other vessels that shall not be allowed in the listed place;
 - (c) the mooring arrangement to be complied with, while the listed place is being used for the purposes of this Act; and
 - (d) the maximum period for which persons are permitted to stay in listed place while the listed place is being used for the purpose of this Act.

(9) The Director shall, after consultation with the Director of the Virgin Islands Shipping Registry, assign to each listed place, a marine shelter master charged with the responsibility of managing the listed place during any period where the listed place is used for the purposes of this Act, and may assign marine shelter officers to assist any marine shelter master.

(10) The Director shall inspect shelters annually in collaboration with the Public Works Department and the Environmental Health Division in accordance with Form 1 and Form 2 in Schedule 2 and in collaboration with the Virgin Islands Shipping Registry.

(11) The Director shall publish the official shelters list annually by 1st June of every year in a local newspaper of wide circulation.

(12) The Governor may enter into an agreement with the owner of premises that are used as shelters where the premises are not in occupation.

(13) A person shall not assault or obstruct a shelter manager, a marine shelter master or a shelter officer in the execution of his or her duty in relation to the function of the shelter manager, marine shelter master or shelter officer under this section.

(14) A person who contravenes subsection (13) commits an offence and is liable on summary conviction to a fine not exceeding two thousand dollars or to a term of imprisonment not exceeding two years or both.

Volunteers.

24. (1) The Director shall maintain a register to be known as the Register of Volunteers.

(2) A person, group or non-governmental organisation wishing to volunteer for the purposes of assisting in an emergency or a disaster shall submit his or her name to the Director for registration as a volunteer and the Director shall, if he or she considers necessary register that person as a volunteer.

(3) A non-governmental organisation wishing to volunteer for the purposes of assisting in an emergency or a disaster must be registered under the Non Profit Organisations Act, 2012.

No. 10 of 2012

(4) The chairperson of each zonal committee shall submit in writing to the Director on or before the 30th day of April in each year, the names of the members of their committees and the Director shall include the names of these members as volunteers and register their names in the Register of Volunteers.

(5) The Director shall amend the register of volunteers as he or she considers necessary.

(6) The Director shall publish annually, the names of all volunteers registered in the Register of Volunteers in a newspaper of wide circulation in the Virgin Islands.

(7) The Director shall provide training and incentives to all volunteers.

(8) The Director shall provide each volunteer with a distinctive badge, tag or other form of identification which shall be carried by each volunteer while engaged in the performance of his or her duties as a volunteer under this Act.

(9) A volunteer who exercises the duties assigned to him or her pursuant to this Act in good faith shall not be liable for injury to persons or loss to property caused as a result of carrying out those duties.

(10) The Cabinet shall effect and maintain policies of insurance in respect of the injury or death of all volunteers on the register.

25. The functions of a hazard inspector are to inspect premises, vessels or vehicles

Functions of hazard inspectors.

(a) for purposes of entering the premises on the list of shelters; or

(b) where in the opinion of the Director, the premises, vehicle or vessel appears to pose a reasonable danger to persons inside or outside the premises, vehicle or vessel before, during or after a disaster.

26. (1) A hazard inspector may, where he or she reasonably believes that the conditions of any premises is reasonably suspected of posing a danger or serious injury to persons in or outside the premises in the event of a disaster, enter premises at a reasonable time with the consent of the owner or occupier for the purpose of carrying out.

Inspections by hazard inspectors.

(2) Where the consent of the owner is not obtained under subsection (1), the inspector shall apply to a Magistrate for a warrant for the purpose and where the Magistrate is satisfied, on evidence on oath by the hazard inspector, that the conditions of any premises is reasonably suspected of posing a danger of serious injury to persons inside or outside of the premises in the event of a disaster, the Magistrate may issue a warrant authorising the hazard inspector to enter and inspect the premises for any hazard.

(3) A warrant issued under subsection (2) expires not later than thirty days after the date on which it is made, and may be renewed before expiry for one or more periods each of which shall not exceed thirty days.

(4) A hazard inspector who exercises a power under this section shall identify himself or herself to any person in control of the premises to be inspected

at the time of the inspection, by producing the hazard inspector's badge, tag or other form of identification issued pursuant to section 11 and the warrant of the Magistrate issued pursuant to subsection (2) and shall explain the purpose of the inspection to the person.

(5) A warrant under this section may be issued or renewed on application notwithstanding that no notice of the application is given to any person who may be affected by the warrant.

(6) A hazard inspector shall prepare a report on any inspection carried out under this section and shall submit the report to the Director.

(7) The Director shall

(a) provide to the owner or occupier of the premises in respect of which a report is submitted a copy of the report submitted by the hazard inspector; and

(b) if the report reveals that the condition of any premises, vehicle, or vessel poses a reasonable danger of serious injury to persons inside or outside the premises on the occurrence of a disaster and the condition of the premises which gives rise to the danger constitutes a violation of any law

(i) submit to the relevant ministry, department of government or body responsible for that other law a copy of the report submitted by the inspector;

(ii) order that the owner or occupier immediately close the premises.

(8) The Director shall in accordance with the information pursuant to subsection (7) request the owner of the premises to take remedial action within a specified period of time, subject to subsection (9), with or without the assistance of the Department.

(9) The assistance referred to under subsection (8) by the Department may be at a fee to the owner and the fee shall be specified by the Director on approval of the Governor.

(10) The owner of any premises who fails to comply with an order issued under subsection (7)(b)(ii) or a request made pursuant to subsection (8) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding six months or to both.

(11) A report of a hazard inspector under this section is admissible in any legal proceedings as evidence of the truth of the report's findings of fact, whether or not the Crown is a party to such proceedings.

(12) A person shall not assault or obstruct the Director or hazard inspector in the execution of his or her duties under this Act.

(13) A person who contravenes subsection (12) commits an offence and is liable on summary conviction to a fine of not exceeding five thousand dollars or to a term of imprisonment not exceeding two years or to both.

27. (1) This section and section 28 shall apply where there is a hazard.

Notice to remove vessels or objects where there is a hazard.

(2) Where the Receiver is satisfied and considers that a vessel or any object recovered from a vessel is

- (a) sunk, partially sunk, adrift, stranded or abandoned in the territorial waters, marine shelters, coastal or inland waters, beaches or the approaches thereto; or
- (b) is likely to become an obstruction, impediment or danger to navigation or to the safe and convenient use or operation of any territorial waters, marine shelters, coastal or inland waters beaches or approaches thereto,

such vessel or object recovered from a vessel shall be deemed to constitute a "hazard" for the purposes of this section.

(3) Where the Managing Director of Ports Authority is satisfied and considers that a vessel or any object recovered from a vessel is

- (a) sunk, partially sunk, adrift, stranded or abandoned in the ports, harbours, or tidal waters under the control and jurisdiction of the Ports Authority; or
- (b) is likely to become an obstruction, impediment or danger to navigation or to the safe and convenient use or operation of any port, harbour or tidal waters under the control and jurisdiction of the Ports Authority,

such vessel or object from a vessel shall be deemed to constitute a “hazard” for the purposes of this section.

(4) Where the

- (a) Receiver is satisfied that there is a hazard under subsection (2); or
- (b) the Managing Director of Ports Authority is satisfied that there is a hazard under subsection (3),

he or she may by notice require the owner or insurer of the vessel or object recovered from a vessel to raise, remove or destroy the whole or any part of such vessel or object recovered from a vessel, within 60 days after the issuing of such notice.

(5) A notice served under subsection (4) shall be given in writing and shall be considered sufficiently and duly served if addressed to the owner or insurer of the vessel or object recovered from a vessel as the case may be, and is

- (a) transmitted by electronic communication, fax or registered post to the last known place of residence or business or registered office of the owner of the vessel or object recovered from a vessel;
- (b) affixed to a conspicuous part of the vessel or affixed to the object recovered from a vessel or;
- (c) published in the *Gazette* and one of the local newspapers.

(6) A notice required under this section to be served on the owner of the vessel shall where there are two or more owners be treated as duly served, if served on only one of the owners.

(7) The Receiver or Managing Director of the Ports Authority may require the owner or insurer of a vessel or any object recovered from a vessel to lodge a bond sufficient to cover the costs of the safe removal and disposal of the vessel or object in the time specified in writing by the Receiver or Managing Director of the Ports Authority.

(8) Where the owner or insurer of a vessel or any object recovered from the vessel

- (a) fails to acknowledge ownership or any interest in a vessel or any object recovered from the vessel; and
- (b) fails to remove and dispose of the vessel or any object recovered from the vessel in the time specified in writing by the Receiver or the Managing Director of Ports Authority pursuant to subsection (4),

such person shall be responsible for all costs incurred by the Receiver or the Managing Director of Ports Authority, as the case may be, for the safe removal and disposal of the vessel or object recovered from the vessel, pursuant to section 28(1).

(9) For the purpose of this section, a vessel or any object recovered from a vessel shall be deemed “abandoned” if the owner or the insurer who has an interest in the vessel or any object recovered from the vessel, such as liens, salvage claims or mortgages does not establish ownership interest as the case may be and claim the vessel or object from the Receiver or Managing Director of Ports Authority within thirty days immediately following a hazard.

(10) For the purpose of this section, a vessel or any object recovered from a vessel shall be deemed “stranded” if it has been run on shore, either accidentally or voluntarily, and cannot be returned to navigate waters without the use of outside assistance and measures.

(11) Notwithstanding the definition of hazard in section 2, for the purposes of this section “hazard” shall be construed within the context of sections 27 (1) and (2).

(12) For the purpose of this section and section 28

“beach” means the area of the coastal zone from the seaward limit of the foreshore running inland to the vegetation line or other natural barrier whichever is closer to the landward limit of the foreshore, and a beach may consist of sand, stones, gravel, shingle, coral fragments or boulders;

“coastal waters” means

- (a) the sea, bays, sounds, lagoons and estuaries;
- (b) any pond or other body of water that is within the adjoining land or adjacent to the landward limit of the adjoining land; and
- (c) any body of water that is connected permanently or intermittently with the sea and which contains a measurable quantity of sea water,

and includes the sea-bed and the land below and along the banks, or otherwise adjacent to, the waters mentioned in paragraph (a), (b) and (c).

“Fund” means the Fund established by section 7 of the British Virgin Islands Ports Authority Act, 1990; No. 12 of 1990

“harbour” has the same meaning as in section 2 of the British Virgin Islands Ports Authority Act, 1990;

“insurer” means a person that contracts to indemnify the owner of a vessel in the event of a loss, damage or liability;

“Managing Director” means the Managing Director appointed under section 20 of the British Virgin Islands Ports Authority Act, 1990 and includes any employee acting under the authority in writing of such Managing Director;

“owner” means a person or person registered as the owner of a vessel or object recovered from the vessel and includes any person having a right in law to the vessel or object recovered from the vessel;

“Ports Authority” means the British Virgin Islands Ports Authority established under section 3 of the British Virgin Islands Ports Authority Act, 1990;

“Receiver” means the Receiver of Wrecks appointed under section 269 of the Merchant Shipping Act, 2001; No. 13 of 2001

“territorial waters” includes coastal land and areas adjacent thereto whether on Crown Land or otherwise; and

“vessel” includes any ship or boat or any other description of vessel used in navigation and also includes every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores or ballast of a vessel as the case may be.

28. (1) Where a vessel or any object recovered from a vessel is not raised, removed or destroyed within the time specified in the notice in section 27, the Receiver or the Managing Director of Ports Authority as the case may be may:

Action to be taken where vessel or object is not removed within time specified in notice.

- (a) take possession of and raise, remove, relocate store or destroy the whole or any part of such vessel or any object recovered from the vessel;
- (b) light, mark or buoy the vessel or object recovered from the vessel until it is raised, removed or destroyed; or
- (c) sell or dispose of the vessel or object recovered from the vessel, or object recovered from the vessel, in such manner as is considered necessary.

(2) The Receiver or the Managing Director of Ports Authority as the case may be, may use the proceeds of sale under subsection (1)(c) as reimbursement for the whole of the expenses incurred in the exercise of powers under this section.

(3) Subject to subsection (2)

- (a) The Receiver shall on demand pay the surplus of the proceeds of the sale, if any, under subsection (1)(c) to the owner or insurer of a vessel or any object recovered from the vessel, and if no demand is made by the owner or insurer to the surplus within twelve months from the date of such sale, the surplus shall be paid into the Consolidated Fund; or
- (b) The Managing Director shall on demand pay the surplus of the proceeds of the sale, if any, under subsection (1)(c) to

the owner or insurer of a vessel or any object recovered from the vessel, and if no demand is made by the owner or insurer to the surplus within twelve months from the date of such sale, the surplus shall be paid into the Fund.

(4) Where the proceeds of the sale under subsection (1)(c) are insufficient to reimburse the Receiver or the Managing Director of Ports Authority as the case may be, for the whole expenses incurred, the Receiver or the Managing Director of the Ports Authority may recover the balance from the owner or insurer of the vessel or object recovered from the vessel, as a debt in any court of competent jurisdiction.

(5) Where a vessel or object recovered from a vessel or any part thereof is raised, removed or destroyed by the Receiver or Managing Director of the Ports Authority under subsection (1)(a) the owner or insurer of the vessel or object recovered from the vessel shall reimburse the Virgin Islands Shipping Registry or the Ports Authority as the case may be for the expenses incurred for raising, removing or destroying the vessel or object recovered from a vessel.

(6) Any expenses incurred

- (a) by the Receiver under section 27 or this section shall be paid from the Consolidated Fund; or
- (b) by the Managing Director of the Ports Authority under section 27 or this section shall be paid from the Fund.

(7) Notwithstanding subsection (5), where a person fails to comply with a notice under section 27(1) there shall be imposed an administrative penalty of 1% of the cost to raise and remove the vessel or any object recovered from the vessel.

Effects of
sections 27 and
28.
No. 13 of 2001
No. 12 of 1990

29. Nothing in sections 27 and 28 shall be construed as affecting the functions or duties of the Receiver or the Managing Director of the Ports Authority under the Merchant Shipping Act, 2001, the British Virgin Islands Ports Authority Act, 1990 or any other related enactment.

Removal of
vessels.

30. (1) Where the Director of the Virgin Islands Shipping Registry is satisfied and considers that a vessel and any object recovered from the vessel is

- (a) sunk, partially sunk, adrift, stranded or abandoned in the ports, harbours or tidal waters under the control and jurisdiction of Ports Authority; or
- (b) is likely to become an obstruction, impediment or danger to navigation or to the safe and convenient use or operation of any port, harbour or tidal waters under the control and jurisdiction of the Ports Authority, such vessel or object recovered from a vessel shall be deemed to constitute a “hazard” for this section.

(2) Where the Managing Director of the Ports Authority is satisfied and considers that a vessel or any object recovered from a vessel is

- (a) sunk, partially sunk, adrift, stranded or abandoned in the ports, harbours or tidal waters under the control and jurisdiction of the Ports Authority; or
- (b) is likely to become an obstruction, impediment or danger to navigation or to the safe and convenient use or operation of any port, harbour or tidal waters under the control and jurisdiction of the Ports Authority, such vessel or object recovered from a vessel shall be deemed to constitute a hazard.

(3) Where the Managing Director of the Ports Authority is satisfied and considers that a vessel or any object recovered from a vessel is

- (a) sunk, partially sunk, adrift, stranded or abandoned in the ports, harbours or tidal waters under the control and jurisdiction of the Ports Authority; or
- (b) is likely to become an obstruction, impediment or danger to navigation or to the safe and convenient use or operation of any port, harbour or tidal waters under the control and jurisdiction of the Ports Authority, such vessel or object recovered from a vessel shall be deemed to constitute a hazard.

(4) Where the Managing Director of the Ports Authority is satisfied that under subsections (1) or (2), he or she may issue a Notice in writing requiring that the owner or insurer to remove the vessel.

(5) Any notice that is served under subsection (1) shall be considered sufficiently served if addressed to the owner of the vessel or object, as the case may be, and

(a) transmitted by electronic communications, fax, or registered post to the last known place of residence or business or registered office of the owner of the vessel or object; or

(b) affixed to a conspicuous part of the vessel or object.

(6) A person who fails to comply with a notice under subsection (1) commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars and, in the case of a continuing offence, to a further fine not exceeding two thousand dollars for every day or part thereof during which the notice is not complied with.

(7) In the case of any vessel or other object sunk, stranded or abandoned in ports, harbours or tidal waters under the control and jurisdiction of British Virgin Islands Ports Authority the notice under subsections (1) and (2) shall be transmitted and served by the British Virgin Islands Ports Authority.

Power to raise and remove vessel or other obstruction.

31. (1) Where a vessel or other object is not raised, removed or destroyed within such time as may be given in the notice under section 27, the Director of the Virgin Islands Shipping Registry or the British Virgin Islands Ports Authority as the case may be may

(a) take possession of and raise, remove or destroy the whole or any part of such vessel or object;

(b) light, mark or buoy such vessel or object until the raising, removal or destruction thereof; and

(c) sell, in such manner as it considers necessary, the vessel, or object.

(2) The Director of the Virgin Islands Shipping Registry or the British Virgin Islands Ports Authority as the case may be, may use the proceeds of the sale under subsection (1)(c) to reimburse itself for the whole of the expenses incurred by it in the exercise of its powers under this section.

(3) The Director of the Virgin Islands Shipping Registry or the British Virgin Islands Ports Authority as the case may be shall on demand pay the surplus, if any, of the proceeds of the sale under subsection (1)(c) to the owner or any person entitled to it and if no demand is made by the owner or any person entitled to the surplus within twelve months from the date of such sale, the surplus shall be paid into the funds of the Virgin Islands Shipping Registry or the British Virgin Islands Ports Authority.

(4) If the proceeds of the sale under subsection (1)(c) are insufficient to reimburse the Virgin Islands Shipping Registry or the British Virgin Islands Ports Authority for the whole expenses incurred, the Director of Virgin Islands Shipping Registry or the British Virgin Islands Ports Authority may recover the balance from the owner of the vessel or object as a debt in any court of competent jurisdiction.

(5) If any vessel, object or any part thereof is destroyed by the Director of Virgin Islands Shipping Registry or the British Virgin Islands Ports Authority under subsection (1)(a), the owner of the vessel or object shall reimburse the Virgin Islands Shipping Registry or the British Virgin Islands Ports Authority as the case may be for the expenses incurred in such destruction.

(6) For the purposes of this section, vessel includes every article or thing or collection of things being or forming part of the tackle, equipment, cargo, stores or ballast of a vessel as the case may be.

(7) Any expenses incurred by the Virgin Islands Shipping Registry or the British Virgin Islands Ports Authority under section 28 or this section shall be paid from the Consolidated Fund.

32. The Director shall for purposes of evacuation, assess the potential for loss of life and injury to persons where there is a threat of a disaster or where a disaster has occurred in the Virgin Islands or in a part of the Virgin Islands and shall consult with the Governor prior to the evacuation.

Consultation
prior to
evacuation.

Notice of
evacuation.

33. (1) The Director shall for purposes of evacuation, assess the potential for loss of life and injury to persons where there is a threat of a disaster or where a disaster has occurred in the Virgin Islands or in a part of the Virgin Islands and shall consult with the Governor prior to the evacuation.

(2) A notice of evacuation pursuant to subsection (1) shall specify the nature of the disaster and the area of the Virgin Islands required to be evacuated and the potential harm to persons.

(3) The Director shall, where a notice is issued pursuant to subsection (1), coordinate the evacuation with the assistance of agencies involved in emergency and disaster management including the Royal Virgin Islands Police Force and the Virgin Islands Fire and Rescue Service.

(4) A person shall comply with a notice of evacuation issued pursuant to this section.

(5) Any person who contravenes subsection (4) commits an offence and is liable on summary conviction to a fine not exceeding two thousand dollars or to a term of imprisonment not exceeding two years or both.

(6) Emergency responders shall not rescue a person who refuses to comply with a notice of evacuation issued pursuant to this section and who later requires rescue where such rescue will compromise the life or safety of the emergency responder.

(7) A person who refuses to comply with a notice of evacuation issued pursuant to this section and who later requires rescue is liable for a payment of up to one thousand dollars for the cost of the rescue.

Employees who
assist in
emergency
situations.

34. (1) Where the Director certifies in writing that the services of a person is or was needed by the Department for the performance of tasks related to response and recovery from an emergency during a specified period, the employer of that person shall pay the salary and all benefits to which the employee was entitled for the period specified.

(2) The period the Director may specify under subsection (1) shall in no case exceed a continuous or cumulative period of two weeks for a particular emergency.

(3) An employer who fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding three months or to both.

PART V
NATIONAL DISASTER MANAGEMENT COUNCIL

35. (1) There is established a National Disaster Management Council which shall comprise

Establishment
and composition
of the Council.

- (a) the Governor as *ex officio* Chairperson;
- (b) the Premier, *ex officio* Co-Chairperson;
- (c) the Financial Secretary, *ex officio*;
- (d) the Attorney-General, *ex officio*;
- (e) the Commissioner of Police, *ex officio*;
- (f) the Chief Fire Officer, *ex officio*;
- (g) the Health Disaster Coordinator, *ex officio*;
- (h) the Director of Central Statistics Office, *ex officio*;
- (i) the Director of Public Works Department, *ex officio*;
- (j) the Chief Physical Planning Officer, *ex officio*;
- (k) all Permanent Secretaries, *ex officio*;
- (l) Director, Virgin Islands, Shipping Registry;
- (m) Chief Executive Officer, Telecommunications Regulatory Commission;
- (n) the Chairpersons of National Committees;
- (o) such other persons as the Governor considers necessary who volunteer or are required by law to perform functions related to disaster management mitigation of, preparedness for, response to, and recovery from, emergencies in the

Virgin Islands or who can provide scientific and technological advice or support to disaster management

(2) The Premier shall in the absence of the Governor, sit as Chairperson.

(3) The Director shall be the Secretary of the Council.

(4) The powers set out in paragraph (m) must be exercised in such a way as to ensure that the membership of the Council does not exceed thirty.

(5) The persons referred to in paragraph (m) shall be appointed by the Governor.

(6) The Governor may invite to a meeting of the Council such other persons as he or she considers relevant but such person shall not be entitled to vote.

Functions of the Council.

36. (1) The functions of the Council include

- (a) making recommendations with respect to the preparation of the National Disaster Management Plan;
- (b) provide technical guidance and assistance with respect to the formulation of policy guidelines in relation to the coordination of disaster management;
- (c) considering such other matters as may be requested by
 - (i) Chairperson of the Council;
 - (ii) any seven members of the Council; or
 - (iii) the Director;
- (d) advising any Ministry, department of Government, statutory body, zonal committee, community, private sector, critical facilities agencies, non-governmental organisation or faith-based organisation on any matter relating to disaster management;
- (e) advising and make recommendations to Cabinet on the development of a National Disaster Management

Policy aimed at ensuring comprehensive disaster management;

- (f) approving the National Disaster Management Strategy, Programming Framework, Monitoring, Evaluating and Reporting mechanism prepared by the Director and submit to Cabinet;
- (g) being responsible for the obligations of the Virgin Islands under the Caribbean Disaster Emergency Management Agency Agreement;
- (h) reporting to Cabinet on the coordination of the National Disaster Management Policy among Ministries;
- (i) advising and make recommendations to Cabinet on issues relating to disaster management;
- (j) develop drafting instructions for the preparation of Regulations by the Cabinet in relation to the
 - (i) prevention, mitigation and suppression of technological, medical, environmental and agricultural hazards;
 - (ii) collection and publication of data pertaining to disaster mitigation preparedness, recovery and emergency management;
 - (iii) prescribing fees; and
 - (iv) prescribing the use and management of any listed premises referred to in section 9 of the Virgin Islands Constitution Order, 2007;
- (k) receiving reports from and reviewing the work of committees established under the Act.

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(2) In performing its functions under subsection (1), the Council shall create a partnership among the governmental agencies, critical facilities agencies, non-governmental agencies and communities so as to facilitate an integrated approach to disaster management and to ensure that disaster management and more particularly risk reduction is incorporated into development procedures and policies with government, non-governmental agencies and communities to promote comprehensive disaster management.

37. (1) The Council shall provide a coherent, transparent and inclusive policy on disaster management appropriate for the Virgin Islands that reflects a proportionate emphasis on disasters of different kinds, severity and magnitude that occur or may occur in the Virgin Islands and which places emphasis on measures that reduce the vulnerability of disaster prone areas, communities and households.

(2) The Council shall ensure that the national disaster management policy

- (a) guides the development and implementation of disaster management envisaged by this Act.
- (b) establishes preparedness, prevention and mitigation, response and recovery as the core principles of disaster management;
- (c) facilitates the establishment of joint standards of practice;
- (d) determines the relationship between the sphere of government exercising primary responsibility for the co-ordination and management of a disaster and the spheres of government performing supportive roles;
- (e) allocates specific responsibilities in this regard to the different spheres;
- (f) guides the development and implementation of disaster management within Ministries on cross-functional and multi-disciplinary bases and allocate responsibilities in this regard to different Ministries;
- (g) facilitates the involvement of the private sector, non-governmental organisations, faith-based organisations and volunteers in disaster management;
- (h) facilitates community participation in disaster management;
- (i) facilitates partnership between Ministries, sector, non-governmental organisations, organisations and communities; and the private faith-based organisations;

- (j) facilitates disaster management capacity building, training and education, including in schools, and provide incentives for such capacity building, training and education;
- (k) promotes disaster management research;
- (l) guides the development of a comprehensive information management system;
- (m) takes into account indigenous knowledge relating to disaster management;
- (n) provides a framework within which Ministries may fund disaster management with specific emphasis on preventing or reducing the risk of disasters, including grants to contribute to post-disaster recovery and rehabilitation and payment to victims of disasters and their dependants;
- (o) addresses the requirements for co-operation and co-ordination between the different Ministries, the private sector, non-governmental organisations, faith-based organisations and local authorities;
- (p) provides key performance indicators in respect of the various aspects of disaster management;
- (q) develops and maintains an effective Strategy and Monitoring Evaluation and Reporting system and database for guiding the Comprehensive Disaster Management Programme in the Virgin Islands;
- (r) is monitored and evaluated annually.

38. (1) The Council may establish committees charged with particular responsibilities, whether defined by geographical area or otherwise, in relation to the preparedness for, mitigation of, response to and recovery from emergencies and disasters in the Virgin Islands.

Establishment of committees.

(2) A committee established under subsection (1) shall consist wholly or partly of members of the Council as may be necessary for the proper carrying out of its responsibility and the Council may co-opt to such committees such specialised personnel as the Council considers fit.

(3) A committee established under this section may prescribe its own rules of procedure.

Convening of meetings of the Council.

39. The Chairperson of the Council shall convene a meeting of the Council

- (a) annually; or
- (b) at any other time for any of the purposes in this Act.

Quorum.

40. The Chairperson or alternate Chairperson and any seven other members of the Council constitute a quorum for meetings of the Council.

Tenure of office.

41. (1) A member of the Council, other than an *ex officio* member and the Deputy Chairperson shall hold office for a period not exceeding two years but may be removed from office at any time by the Governor before expiry of their terms and on such other terms and conditions as the Governor may determine.

(2) A member of the Council, other than an *ex officio* member or the Deputy Chairperson, may at any time by letter addressed to the Chairperson of the Council resign his office.

(3) Where a member of the Council resigns under subsection (2) or is for any reason within the terms and conditions of his or her appointment removed from office under subsection (1), the Chairperson of the Council may appoint a person as he or she thinks fit to replace that member.

(4) A member of a committee other than an *ex officio* member and the Deputy Chairperson shall hold office for a period not exceeding two years but may be removed from office at any time by the Council before expiry of their terms on such other terms and conditions as the Council may determine.

(5) A member of a committee, other than an *ex officio* member or the Deputy Chairperson, may at any time by letter addressed to the Council resign his or her office.

(6) Where a member of a committee resigns under subsection (5) or is for any reason within the terms and conditions of his or her appointment removed from office under subsection (4), the Chairperson of the Council may appoint a person as he thinks fit to replace that member.

Admission of members of the public to meetings.

42. (1) Any meeting of the Council is open to members of the public.

(2) Notwithstanding subsection (1), the members of the public are non-participating observers at any meeting of the Council and shall as the Chairperson of the Council may consider appropriate be accommodated at the venue of the meeting until the Council decides by resolution to conduct in camera its subsequent proceedings at that meeting.

43. The Council shall, at every meeting consider and settle the minutes of its previous meeting submitted by the Director, before considering and adopting any new matters. Minutes.

44. (1) Where any matter or question is put to a vote at a meeting of the Council, the matter shall be determined by the majority of the members of the Council present and voting on the matter or question, and in the case of equality of votes, the Chairperson or, in the absence of the Chairperson, the Deputy Chairperson, shall have a casting vote whether or not the Chairperson or Deputy Chairperson as the case may be, has voted before on the matter or question. Voting.

PART VI ZONAL COMMITTEES

45. (1) The Director shall establish zonal committees for the purposes of this Act. Establishment of zonal committee.

(2) A committee shall be aligned in accordance with the electoral district.

(3) A committee established under section 38 shall consist wholly or partly of resident of the zone that deemed necessary for the proper carrying out of its function and may co-opt specialised personnel as the committee deems appropriate.

46. A zonal disaster risk management committee shall perform the following functions Functions of zonal committee.

- (a) ensure that disaster risk management in the zone is consistent with the National Disaster Management Plan;
- (b) develop and coordinate an effective disaster risk management plan for the zone and regularly review and assess the plan; and
- (c) submit an annual updates to the Director on matters related to disaster management.

47. A zonal committee shall regulate its own procedure to be consistent with the National Disaster Management Plan. Regulations of procedure.

Management Strategy and Programming Framework and the Monitoring, Evaluation and Reporting Database.

52. Every Permanent Secretary, head of department of government, statutory body and critical facility agency shall ensure that exercises and training for staff in relation to disaster management are conducted annually. Annual exercises and training of staff.

53. (1) Every Permanent Secretary, head of department of government, statutory body and critical facility agency shall ensure that resources available for use or identified for use in disaster management are maintained so as to be ready for use. Resources.

(2) Every Permanent Secretary, head of department of government and statutory body and critical facility agency shall submit a list of the available resources that may be used for or are identified for use in disaster management to the Director to facilitate the compilation of a national inventory database.

(3) The Director shall, in collaboration with every Ministry, department of government, statutory body and relevant private sector entities develop and maintain a national inventory database of available resources for use in disaster management.

54. Every Permanent Secretary, head of department of government, statutory body, or the chairperson of a zonal committee or critical facility, shall supply to the Director in the prescribed manner and by such date as may be required by the Director, such information as may reasonably be requested by the Director. Supply of information.

55. (1) Every Permanent Secretary, head of department of government, statutory body, critical facility agency and zonal committee shall prepare a report on damage assessment in the aftermath of a disaster. Reporting of damage assessment.

(2) A report prepared under subsection (1) shall be submitted to the Director as soon as practicable after it is prepared.

56. (1) Before any person other than the Governor exercises any power related to disaster preparedness and response under this Act, that person shall subject to subsections (2) and (4), consult with the Director. Director to be consulted.

(2) The obligation to consult under subsection (1) does not apply

- (a) during a disaster or an emergency, where the person exercising the powers considers that the urgency of the matter or difficulties of logistics makes such consultation impracticable; and
- (b) in respect of the exercise of any power in relation to which a waiver by the Director to be consulted is in effect under subsection (3).

(3) The Director may with the approval of the Governor waive the requirement to be consulted under subsection (1).

(4) Where the Governor approves the waiver under subsection (3), he or she shall by Order cause the waiver to be published in the *Gazette* and the waiver shall take effect on publication.

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

PART VIII
NATIONAL EARLY WARNING AND MULTI-HAZARD ALERT
SYSTEM AND DECLARATION OF DISASTERS

National Early
Warning and
Multi-Hazard
Alert System.

57. (1) There shall be a National Early Warning and Multi-Hazard Alert System for the Virgin Islands.

(2) The National Early Warning and Multi-Hazard Alert System shall be operated under the supervision of the Director and shall consist of

- (a) a National Emergency Alert System;
- (b) siren network;
- (c) Radio Data System;
- (d) emergency telecommunication systems;
- (e) wireless emergency alerts; and

(f) such warning systems as may be prescribed under this Act.

58. (1) The National Early Warning and Multi-Hazard Alert System shall be activated by the Director, Emergency Communications Manager or Emergency Communications Officer directly from the National Emergency Operations Centre to the public on such frequency or in such manner as is specified in a memorandum of understanding between the government and a person who is licensed to operate a communications station in accordance with the National Disaster Management Plan and the provisions of any existing law.

Operation of the National Early Warning and Multi-Hazard Alert System.

(2) The memorandum of understanding under subsection (1) shall contain procedures related to access to facilities to install, maintain and test equipment within the National Early Warning and Multi-Hazard Alert System in accordance with annually agreed schedules.

(3) A person with whom the government has entered into a memorandum of understanding referred to in subsection (1) shall co-operate with the Department for the installation and testing of units on their premises to enable the effective operation of the National Early Warning and Multi-Hazard Alert System.

(4) An emergency message including alerts, watches and warnings shall not be issued on the National Early Warning and Multi-Hazard Alert System unless it is approved by the National Emergency Operations Centre Director.

(5) Subject to subsection (9), a person who contravenes subsection (4)

(a) commits an offence and is liable, on summary conviction, to a fine not exceeding five thousand dollars; and

(b) is, without prejudice to the power of the court to make any order or grant any other relief, liable in civil proceedings to pay damages to any person who suffers injury, loss or damage as a result of relying on the announcement.

(6) The Director shall keep copies of all emergency messages transmitted through the National Early Warning and Multi-Hazard Alert System and shall, upon application in writing and on payment of a fee determined by the Director, provide any person with a certified copy of any message.

(7) Judicial notice shall be taken of an original signed copy of a certified copy referred to in subsection (6).

(8) Any message transmitted through the National Multi-Hazard Alert System shall be presumed to be transmitted in accordance with subsection (4), unless notice to the contrary is subsequently given by an emergency message on the National Early Warning and Multi-Hazard Alert System or by an advertisement issued by the Director and published on the Department website and in one issue of a newspaper of wide circulation in the Virgin Islands.

(9) A person with whom the government has entered into a memorandum of understanding referred to in subsection (1)

(a) is entitled to presume that all announcements issued on the National Multi-Hazard Alert System are in accordance with subsection (4); and

(b) is not liable under subsection (5),

unless it is proved that he or she knew or had reason to believe that the announcement was not issued in accordance with subsection (4).

(10) Where a hazard alert, watch or warning exists and the Governor, after consultation with the Director, is satisfied that the lives of the residents in any part of the Virgin Islands are at risk, the Governor shall cause an announcement, advising those residents to evacuate that part of the Virgin Islands in the interest of their personal safety

(a) to be issued on the National Early Warning and Multi-Hazard Alert System; or

(b) to be pronounced by loud speaker in that part of the Virgin Islands by members of the Royal Virgin Islands Police Force.

(11) Notwithstanding this section, the Governor may, on the advice of the Director, declare that without prejudice to the formal announcement through the National Early Warning and Multi-Hazard Alert System, a hazard alert, watch or warning does not exist in respect of the Virgin Islands.

(12) The National Early Warning and Multi-Hazard Alert System shall not be activated unless the Director, Emergency Communications Manager or Emergency Communications Officer activates it personally or specifically authorises an officer of the Department, or such other person as he or she considers fit, to do so.

(13) The National Early Warning and Multi-Hazard Alert System may also be activated by the Royal Virgin Islands Police Force in special cases where urgent warning is needed in accordance with any Memoranda of Understanding.

(14) A person who willfully activates the any element of the National Early Warning and Multi-Hazard Alert System without the authorisation of the Director commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

(15) A person who willfully performs an act that results in the damage or destruction of any component of the national Multi-Hazard Alert System and the associated telecommunication and utility supporting mechanisms commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

(16) Any person who shall willfully damage, destroy, vandalise, deface or tamper with utilities and communications system equipment in a critical infrastructure facility shall, upon conviction, be guilty of a felony punishable by a fine of not exceeding five thousand dollars.

(17) If any organisation is found to be a conspirator with persons who are found to have committed any of the crimes described in subsection (15) or (16) of this section, the conspiring organisation shall be punished by a fine that is five times the amount of said fine authorised by the appropriate provision of this section.

(18) Any person or entity that compensates, provides consideration to or remunerates a person for trespassing as described in this section may also be held vicariously liable for any damages to personal or real property committed by the person compensated or remunerated for trespassing.

59. (1) The Governor may declare a disaster for the Virgin Islands, or a part of the Virgin Islands, if he or she is satisfied

Declaration of disaster.

- Schedule 4
- (a) that there is a substantial prospect that a disaster of a kind listed in Schedule 4 will occur within forty-eight hours;
 - (b) that a disaster has happened, is happening or is likely to happen in the Virgin Islands; and
 - (c) that it is necessary for the Department or a person authorised under this Act to exercise disaster management powers, to prevent or minimise loss of human life, illness or injury to property loss or damage to the environment.
- (2) The declaration of a disaster under subsection (1) shall include
- (a) the time and date of the declaration; and
 - (b) the area in respect of which the declaration is made.
- (3) A declaration of a disaster under this section shall, as soon as practicable, be published by Notice in the *Gazette*.
- (4) A disaster
- (a) commences when it is declared under subsection (1); and
 - (b) ends when the Governor declares that it has ended.
- (5) The Governor may extend the notice referred to in subsection (3) for such period as he or she considers necessary.
- (6) A notice extending the period of the disaster shall
- (a) state the period by which the disaster is extended; and
 - (b) expires at the end of the stated period unless it is sooner revoked or expires under subsection (7).
- (7) The Governor shall by Notice declare the end of a disaster if it is no longer necessary for persons exercising disaster powers under this Act to do so.

Public and
official access.

60. (1) The Director, a member of the Royal Virgin Islands Police Force or any person acting under the authority of the Director may, on the declaration of a hazard alert or disaster, in order to limit the extent of the disaster, totally or partially prohibit or restrict public access, with or without vehicles, to any road or pathway within the Virgin Islands affected or likely to be affected by the disaster.

(2) A landowner or his or her agent shall allow the Director, a member of the Royal Virgin Islands Police Force or any person acting under the authority of the Director during a hazard alert, watch, warning or disaster, passage onto the land in order to clear any channel for water to flow freely or remove of any obstruction so as to limit the extent of the effects of the disaster.

(3) A person shall not, during a hazard alert or disaster, obstruct the work of the Director, a member of the Royal Virgin Islands Police Force or any person acting under the authority of the Director, and shall obey instructions to stay away from any disaster management works.

(4) A person who contravenes subsection (2) or (3) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding three months or both.

PART IX PROTECTION OF UTILITIES AND COMMUNICATIONS SYSTEM

61. (1) Any person who shall willfully damage, destroy, vandalize, deface or tamper with utilities and communications system equipment in a critical infrastructure facility shall, upon conviction, be guilty of a felony punishable by a fine of not exceeding five thousand dollars. Offences.

(2) If any organisation is found to be a conspirator with persons who are found to have committed any of the crimes described in subsection (15) or (16) of this section, the conspiring organisation shall be punished by a fine that is five times the amount of said fine authorised by the appropriate provision of this section.

(3) Any person or entity that compensates, provides consideration to or remunerates a person for trespassing as described in this section may also be held vicariously liable for any damages to personal or real property committed by the person compensated or remunerated for trespassing

PART X SPECIALLY VULNERABLE AREAS

62. (1) Cabinet may, on the recommendation of the Council, designate, any area as specially vulnerable to a hazard (referred to in this Act as a specially vulnerable area) by Order published in the *Gazette*. Delimitation of specially vulnerable areas.

(2) Before making an Order under subsection (1), the Cabinet shall arrange for a draft Order prepared after consultation by the Director with the

relevant Government institutions and other organisations in the private sector and delimiting any area that the Director recommends for designation as a specially vulnerable area, to be published in the *Gazette* and in at least one newspaper circulating in the Virgin Islands and presented by the Director for discussion and comment at a public consultation.

(3) The Director shall submit a report on the public consultation held under subsection (2) to the Governor, who shall cause the report and the draft Order to be reviewed by the Council, and the Council shall, upon completion of its review, make such recommendations to the Cabinet concerning the making of an Order under subsection (1) as the Council thinks fit.

(4) For the avoidance of doubt, the provisions of this section apply to the making of an amendment to an Order under subsection (1) as they apply to the making of such an Order.

Special area
precautionary
plans for
specially
vulnerable areas.

63. (1) The Director may prepare for the approval of the Cabinet, a special area precautionary plan for the mitigation and prevention of disasters in a specially vulnerable area.

(2) A special area precautionary plan may include strategies, policies and standards for development and for maintenance of structures in the specially vulnerable area or any such proposed area.

(3) A special area precautionary plan may communicate strategies, policies, standards or designations by means of maps and diagrams.

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(4) A special area precautionary plan does not authorise any development that is not permitted under the Physical Planning Act, 2004, the Building Ordinance or any other enactment.

Draft special area
precautionary
plan.

64. (1) Before approving a special area precautionary plan, the Cabinet shall cause a draft special area precautionary plan prepared by the Director to be published in the *Gazette* and in at least one newspaper circulating in the Virgin Islands and invite the public to submit comments on the draft special area precautionary plan to the Director in writing.

(2) The Cabinet shall allow a period of not less than four weeks and not more than eight weeks for the receipt by the Director of comments under subsection (1).

(3) From the date of the invitation to the public under subsection (1), the Director shall, on written application by any person, permit access to any technical studies used in the preparation of the draft special area precautionary plan.

65. (1) After the expiration of the time allowed under section 64(2) for the submission of comments, the Director shall submit a report on the comments received to the Governor, who shall cause the report and the draft special area precautionary plan to be reviewed by the Council.

Approval of special area precautionary plan.

(2) The Director shall, on the recommendation of the Council if any, amend the draft special area precautionary plan before submitting it to the Cabinet for approval.

(3) Cabinet may, subject to such amendments, if any, as it considers fit, approve the special area precautionary plan submitted under subsection (2).

(4) Cabinet shall cause the special area precautionary plan approved by it to be published in the *Gazette* and the special area precautionary plan so published shall form part of the Government's official policy on disaster management.

(5) For the avoidance of doubt, the provisions of this section and sections 64 and 65 apply to an amendment to a special area precautionary plan published under subsection (4) as they apply to a special area precautionary plan.

PART XI EMERGENCY DISASTER FUND

66. (1) There is established by this Act a fund to be known as the Emergency Disaster Fund.

Emergency Disaster Fund.

(2) The resources of the Fund shall consist of

- (a) sums as may be appropriated by the House of Assembly;
- (b) annual contributions from the government of the Virgin Islands;
- (c) donations and grants made by persons and organisations approved by the Ministry of Finance;
- (d) monies raised by way of loan or other means with the approval of the House of Assembly upon the recommendation of the Minister responsible for Finance (in this Part referred to as the Minister); and
- (e) other monies as the Council may raise through activities organised by or on behalf of the Council.

(3) All monies received under subsection (2) shall be deposited into a bank account in the Virgin Islands as approved by the Minister.

Application of Fund.

67. (1) The Fund shall be applied towards the relief, rehabilitation and recovery efforts.

(2) Guidelines may be issued by the Governor in the form of regulations with respect to use of the Fund.

(3) The Fund may, subject to the approval of the Minister, be applied towards assisting by way of grants or loans, other countries that have suffered a disaster of a similar nature contemplated under this Act.

Administration of Fund.

68. (1) The Fund shall be administered by a Committee (hereinafter referred to as the Fund Committee) comprising the Financial Secretary, as *ex officio* Chairperson, the Director and not more than three other persons, qualified in financial management, appointed by instrument by the Governor after consultation with the Minister.

(2) The members of the Fund Committee other than the Chairperson shall be appointed for a period of two years and on such other terms and conditions as the Minister may determine.

(3) The Fund Committee shall

- (a) meet at times and place at the Chairperson may determine; and
- (b) regulate its procedure in a manner as it may determine.

(4) In the administration of the Fund, the Fund Committee shall, in consultation with the Council be responsible for

- (a) determining the criteria to be applied in providing financial assistance to persons for their relief and recovery from an emergency or a disaster;
- (b) the keeping of proper books of accounts and other records;
- (c) the preparation and submission of reports relating to the administration of the Fund to the Minister; and
- (d) making recommendations to the Council on activities relating to the raising of funds under section 66.

(5) The Fund Committee may, with the approval of the Minister invest monies credited to the Fund in a manner as it considers prudent, and any interest or benefit derived from such investment shall form part of the Fund.

- (6) The Fund shall be activated where
 - (a) a declaration is made by the Governor that there is a disaster;
 - (b) there is significant impact to critical facilities and evidence is presented to indicate that recovery cannot be handled at the Ministry level funding; or
 - (c) claims submitted by the Department after impact by hazard events are in accordance with policy guidelines on financial compensation.

69. (1) Subject to subsection (2) no money shall be withdrawn from the Fund except on the authority of a warrant under the hand of the Minister who shall make the authorisation after consultation with the Fund Committee.

Withdrawal of money from the Fund.

(2) Where it is not reasonably practicable for the Minister to sign a warrant, the Financial Secretary may disburse the necessary funds subject to the ratification by the Minister at the earliest opportunity.

70. (1) The accounts of the Fund shall be audited and reported on annually by the Auditor General and for that purpose the Auditor General or any person authorised by him or her shall have access to all books, account, records, returns and other documents relating to such accounts.

Accounts and Audit.

(2) The Auditor General shall submit the report referred to in subsection (1) to the Minister who shall cause it together with the report received under section 68(4)(c) to be laid before the House of Assembly.

**PART XII
INTERNATIONAL INSTRUMENTS AND MEMORANDA OF
UNDERSTANDING**

- 71. The Cabinet may, after consultation with the Council
 - (a) make, subject to section 78(8), an Order applying to the Virgin Islands the provisions of any regional, sub-regional or international instrument relating to emergencies and disasters which applies to the Virgin Islands; or
 - (b) enter, subject to section 60 of the Virgin Islands Constitution Order, 2007, into such arrangements or memoranda of understanding as it considers

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necessary with other States, territories or organisations to enhance the Virgin Islands management plans and efforts as they relate to the mitigation of, preparedness for, response to and recovery from, emergencies and disasters.

PART XIII MISCELLANEOUS

Telecommunications during a disaster.
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72. (1) All cellular companies operating in the Virgin Islands and licensed under the Telecommunications Act, 2006 may enter into roaming agreements with each other whereby in the event of a disaster customers can place calls or use mobile data and the service will be carried by whichever network is most operational in their area.

(2) Such service under subsection (1) shall not affect the customer's bills.

Protection from liability.

73. An action or proceeding shall not be brought against any person in the exercise or performance of his or her powers, duties or obligations under this Act where the powers, duties or obligations are exercised in good faith.

Compensation.

74. Where the Director or any public officer or person appointed under this Act suffers any physical injury, or loss or damage to any personal property in the course of the performance of his or her duties under this Act or Regulations made under this Act, he or she shall be entitled to receive compensation paid out of public funds in respect of the expenses incurred in the treatment of the injury and the value of such property loss or damage.

Penalties.

75. (1) A person who commits an offence for which no penalty is specified under this Act or any Regulations made under this Act is liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding one year, or both.

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

Information as to contravention of the Act

76. (1) Where an offence is created by this Act, information against any person accused of committing that offence may be laid by the Director of Public Prosecutions.

(2) Subject to subsection (1), information may be laid by a shelter manager against a person accused of committing an offence against Regulations made under this Act.

77. The Governor may by Order amend the Schedules to this Act.

Amendment of
Schedules.

78. (1) The Governor may make Regulations generally for the purpose of implementing the provisions of this Act. Regulations.

(2) Without prejudice to the generality of subsection (1) the regulations made under subsection (1) may prescribe

- (a) that notice of the availability of a report may be given by advertisement in the *Gazette* or local newspaper where attempts to identify or find an occupier, for the purpose of providing the report or notifying its contents, have not succeeded after one month or such long period as may be prescribed;
- (b) the manner in which the Fund is used;
- (c) minimum standards for shelters;
- (d) special measures for the provision of shelter and any other assistance to children, the elderly, persons with disabilities and other vulnerable persons;
- (e) guidelines for a national systematic shut down;
- (f) warning systems;
- (g) that use of any listed premises by persons taking shelter therein shall apply during the period when the premises are in use as shelters;
- (h) Guidelines for Relief Donations and the distribution of relief goods;
- (i) the use and coordination of non-governmental organisations and other volunteers following declarations of disasters.

(3) Regulations made under subsection (2) for listed premises which are not in Crown occupation may be made on the recommendation of the occupier of the premises.

(4) Regulations made under subsection (2) may confer on shelter managers and shelter officers authority to

- (a) refuse admission of persons to the shelter to prevent overcrowding;
- (b) prohibit the bringing of pets or other animals into the shelter;
- (c) prohibit the bringing of weapons or hazardous materials into the shelter;
- (d) limit by weight or bulk the luggage or other property to be brought into the shelter by persons taking shelter;
- (e) disclaim, as a condition of permitting persons using the shelter to bring luggage or other property into the shelter, responsibility for the safety of such property, including responsibility for negligent damage to such property;
- (f) refuse entry of any person to the shelter unless that person submits to a search of any luggage or other property to be brought into the shelter;
- (g) allocate the use of the space and the facilities of the shelter among different users thereof, and to impose reasonable charges to cover the cost of providing telephone and other services beyond the allocation of physical space;
- (h) regulate the use of musical instruments and other equipment which may disturb other users of the shelter by noise or light;
- (i) prohibit or regulate the consumption of alcoholic drink and the use of tobacco products in the shelter premises;
- (j) require persons to observe safeguards in the interests of the health of other persons;
- (k) require persons using the shelter to take precautions against the outbreak or spread of fire, including participating in fire drills requiring temporary evacuation and assembly;
- (l) set minimum standards of collection in shelters in the interests of decency and public morality;
- (m) set minimum standards of cleanliness and tidiness to be observed in shelters;

- (n) require persons taking shelter to clean areas within the shelter which they occupy; and
- (o) enforce the criminal law and the regulation and prohibition of prescribed matters by suspension or expulsion from the shelter, and to use reasonable force for this purpose, independently of any proceedings in respect of an offence under this Act.

(5) Where the use of reasonable force is permitted under subsection (4)(o), the shelter manager or officer may request the assistance of any other person in the use of such reasonable force, and neither the shelter manager or shelter officer or person rendering assistance shall be liable, whether civilly or criminally, for any suit by virtue of using such reasonable force.

(6) Where a person is detained under subsection (4)(o), the detention may not be continued beyond the first reasonable opportunity to hand over custody of the person detained to a member of the Police Force.

(7) Regulations made under this Act may create offences and prescribe penalties for such offences within the limits in section 75.

(8) Regulations made under this Act shall be subject to a negative resolution.

(9) During a hazard alert, any threat of a disaster or emergency, Regulations made under this Act, other than Regulations required under subsection (11) to be published in the *Gazette*, may be published either.

- (a) by announcement in any radio, television or wireless transmission media licensed for transmission and reception in the Virgin Islands pursuant to the law in force in the Virgin Islands; or
- (b) by notice affixed to the outside of every Magistrate's Court and every police station located in the area to which the Regulations apply.

(10) A publication under subsection (9) is considered sufficient compliance, for the duration of any period of hazard alert or disaster emergency, with any requirement of publication under this Act or any other law.

(11) The means of certifying the authenticity of Regulations published under subsection (9) shall, unless otherwise prescribed by Regulations published in the *Gazette*, be

- (a) in the case of media announcements under subsection (9)(a), certification by the voice of the Premier, Governor, a Permanent Secretary, the Director or a head of a department of Government;
- (b) in the case of posted notices under subsection (9)(b), certification by the actual or facsimile signature of the Premier, Governor, a Permanent Secretary, the Director or a head of a department of Government.

Repeal and savings.
No. 3 of 2003

79. (1) The Disaster Management Act 2003 is repealed.

(2) Notwithstanding the repeal of the enactment under subsection (1)

- (a) any Rule, Order or Regulations made under the repealed enactments shall, until revoked, continue to be in force to the extent that the Rule, Order or Regulations is not inconsistent with this Act;
- (b) any directions, notifications, approvals, decisions and other executive acts howsoever called, made, given or done under, or in accordance with, or by virtue of the repealed enactment shall, if in force on the date immediately prior to the coming into force of this Act, continue in force, and shall so far as it could have been made, given or done under this Act have effect as if made, given or done under the corresponding provisions this Act;
- (c) any memorandum of understanding entered into under section 22 of the Disaster Management Act, 2003 shall continue as if entered under section 71 of this Act.

Continuation of rights, liabilities, etc. under the Disaster Management Act.
No. 3 of 2003

80. (1) Nothing in the Disaster Management Act, 2003 or this Act shall affect any person's liability to be prosecuted or punished for offences or breaches committed under the Disaster Management Act, 2003 before the commencement of this Act or any legal proceedings brought, sentence imposed or action taken before that day in respect of such offence or breach.

(2) Any right, privilege, obligation or liability acquired, accrued or incurred before the effective date or any legal proceedings, remedy or

investigation in respect of such right, privilege, obligation or liability shall not be affected by this Act and shall continue to remain in force as if this Act had not been enacted.

82. This Act binds the Crown.

Act binds the
Crown.

SCHEDULE 1

[Section 4]

AGREEMENT ESTABLISHING THE CARIBBEAN DISASTER EMERGENCY MANAGEMENT AGENCY (CDEMA)

THE STATES PARTIES

CONSCIOUS that the fragile economies and ecosystems of Caribbean States are extremely vulnerable to natural and man-made disasters including hurricanes, earthquakes, tsunamis, volcanic eruptions, droughts, floods and landslides;

RECALLING that during recent decades a succession of natural disasters including hurricanes, earthquakes, floods, landslides and volcanic eruptions adversely affected many States within the Caribbean Region;

RECOGNISING the work of the Caribbean Disaster Response Agency in disaster preparedness and response;

DESIROUS of establishing the Caribbean Disaster Emergency Management Agency to replace and advance the work of the Caribbean Disaster Emergency Response Agency to ensure the sustainable development of resilient communities within the Caribbean Region;

HAVE AGREED AS FOLLOWS

ARTICLE I

DEFINITIONS

In this Agreement, unless the context otherwise requires -

affected Participating State means a [State in the territory] of which a disaster has occurred;

CARICOM means the Caribbean Community;

CDEMA means the Caribbean Disaster Emergency Management Agency established under Article II;

Coordinating Unit means the administrative and operational organ of CDEMA;

Council means the Organ of CDEMA referred to in Article VI;

disaster means the exposure of the human habitat to the operation of the forces of nature or to human intervention resulting in widespread destruction of lives or property, but excludes events occasioned by war or military confrontation;

disaster management means the development and implementation of regional and national policies to prevent and mitigate the effects of disaster;

Executive Director means the Executive Director of CDEMA appointed under Article VII;

Fund means the Emergency Assistance Fund established under Article XXVI;

Management Committee of the Council or MCC means the Committee established and appointed by the Council under Article IX;

National Disaster Management Agency means the government agency responsible for disaster management;

Participating State means a State party to this Agreement;

requesting State means a Participating State which has made a request under this Agreement;

sending State means a Participating State which has responded to a request for assistance under this Agreement;

State includes a non-politically independent territory of the Caribbean;

TAC means the Technical Advisory Committee referred to under Article X; and

Treaty means the Revised Treaty of Chaguaramas establishing the Caribbean Community including the CARICOM Single Market and Economy (CSME) signed at Nassau, The Bahamas on the 5th day of July, 2001.

ARTICLE II

ESTABLISHMENT OF CDEMA

The Caribbean Disaster Emergency Management Agency (CDEMA) is hereby established with the organs, membership, structure, and functions herein set forth.

ARTICLE III

LEGAL PERSONALITY

1. CDEMA shall have international legal personality and such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its objectives.

2. CDEMA and its staff shall enjoy all the usual rights, privileges and immunities of Agencies which have international legal personality.

ARTICLE IV

MEMBERSHIP

Membership of CDEMA shall be open to

- (a) the States and territories listed in the Annex; and
- (b) other States within the Caribbean Region recommended for membership by the MCC under Article XXXIX.

ARTICLE V

OBJECTIVES

CDEMA shall have the following objectives

- (a) mobilising and coordinating disaster relief;
- (b) mitigating or eliminating, as far as practicable, the immediate consequences of disasters in Participating States;
- (c) providing coordinated response by means of emergency disaster relief to any affected Participating State;
- (d) securing, coordinating and providing to interested inter-governmental and non-governmental Organisations reliable and comprehensive information on disasters affecting any Participating State;
- (e) encouraging

- (i) the adoption of disaster loss reduction and mitigation policies and practices at the national and regional level;
 - (ii) cooperative arrangements and mechanisms to facilitate the development of a culture of disaster loss reduction; and
- (f) coordinating the establishment, enhancement and maintenance of adequate emergency disaster response, capabilities among the Participating States.

ARTICLE VI

ORGANS OF CDEMA

CDEMA shall have the following Organs with the powers and functions specified in this Agreement

- (a) the Council;
- (b) the Technical Advisory Committee; and
- (c) the Coordinating Unit.

ARTICLE VII

THE COUNCIL

1. The Council shall consist of the Heads of Government of the Participating States.

2. Each member of the Council shall be entitled to nominate any other competent person to represent that member at meetings of the Council.

3. The Council shall meet in ordinary session at least once in every calendar year and shall convene in extraordinary sessions at the request of three-quarters of the Participating States.

4. The Chairperson and Deputy Chairperson shall be elected from among members of the Council.

5. The Chairperson shall preside over the meetings of the Council and the MCC.

6. The Chairperson and Deputy Chairperson shall serve for a period of one year and shall be eligible for re-election.

7. In the absence of the Chairperson, the Deputy Chairperson shall preside over meetings of the Council and the MCC.

8. In the absence of both the Chairperson and the Deputy Chairperson, the Members of the Council present may elect any member to act in the position of Chairperson.

9. The Council shall regulate its own procedure.

ARTICLE VIII

FUNCTIONS OF THE COUNCIL

The Council shall

- (a) determine the policies of CDEMA;
- (b) receive and approve the annual budget and the contribution of the Participating States to CDEMA;
- (c) designate national disaster and disaster management Organisations as Sub-Regional Disaster Emergency Operational Units with the prior consent of the Governments of the Participating States involved;
- (d) appoint the Executive Director on the recommendation of the MCC;
- (e) consider and make decisions based on the recommendations of the TAC;
- (f) perform such other function as it deems necessary or expedient to achieve the objectives of this Agreement.

ARTICLE IX

MANAGEMENT COMMITTEE OF THE COUNCIL

1. There shall be established a Management Committee of the Council whose members shall be appointed by the Council.

2. The membership of the MCC shall comprise

- (i) four persons, each representing one of the sub-regions of CDEMA, one of whom shall be Chairperson of the Council;
 - (ii) the Chairperson of the TAC; and
 - (iii) the executive Director.
3. The Terms of Reference of the MCC shall be determined by the Council.

ARTICLE X

THE TECHNICAL ADVISORY COMMITTEE

1. The Technical Advisory Committee shall consist of the national disaster coordinators of the Participating States.
2. Notwithstanding paragraph 1, persons may be selected by the TAC from regional institutions engaged in activities related to disaster management to participate in meetings of the TAC.
3. The Chairperson of the TAC shall be elected from amongst its members and shall not be elected to serve as Chairperson for more than two consecutive terms.
4. The Chairperson shall convene the meetings of the TAC which shall meet at least once in every calendar year and convene extraordinary meetings at the request of not less than one-half of its members.
5. The Executive Director shall be the Secretary of the TAC.
6. The TAC shall regulate its own procedure.

ARTICLE XI

FUNCTIONS OF THE TECHNICAL ADVISORY COMMITTEE

The TAC shall

- (a) act in an advisory capacity to CDEMA on matters relating to strategies for resource mobilisation, work programme review and programme development;
- (b) recommend standards and procedures for the fair and equitable deployment of resources for disaster management made available by Participating States;

- (c) recommend the standards and procedures for triggering the disaster response mechanism;
- (d) develop and recommend procedures for mobilising national resources to provide assistance in a timely and efficacious manner;
- (e) recommend guidelines for establishing systems for maintaining and sharing inventories of critical resources likely to be needed by Participating States in the event of a disaster;
- (f) make recommendations for the rapid access of financial resources to cover the cost of mobilisation in the event of disaster in a Participating State;
- (g) recommend protocols to facilitate the movement of resources originating in or transiting in a Participating State having regard to the requirements of immigration and customs authorities;
- (h) recommend and regularly review pro forma lists of the likely requirements of Participating States in the event of disasters;
- (i) advise CARICOM institutions and national institutions on matters relevant to its functions;
- (j) forward its recommendations to the Council for its consideration; and
- (k) perform such other functions as the Council may determine.

ARTICLE XII

THE HEADQUARTERS OF THE COORDINATING UNIT

The Coordinating Unit shall have its headquarters where the Council decides.

ARTICLE XIII

FUNCTIONS OF THE COORDINATING UNIT

1. In addition to any other functions which the Council may specify, the Coordinating Unit shall

- (a) develop and maintain a reliable damage assessment system and procedures to facilitate rapid and effective evaluation of national disasters;
- (b) develop and maintain a comprehensive and reliable data base of key relevant resources necessary to achieve the objectives of CDEMA and a system for updating the database;
- (c) establish, equip and maintain a coordinated emergency operations system capable of responding to emergency situations;
- (d) establish and maintain an efficient and reliable system of communications with sub-regional operational focal points in order to facilitate the mobilisation, deployment and coordination of disaster response supplies and services;
- (e) establish and maintain a reliable system of communications with the heads of national disaster management Agencies and ensure that their disaster response capabilities are maintained at agreed levels of operational efficiency;
- (f) establish arrangements with regional media houses designed to ensure the dissemination of reliable information on national disasters to the public;
- (g) establish arrangements with the CARICOM Committees of Ambassadors in the metropolitan centres in order to ensure the dissemination to them of reliable information on national disasters in Participating States and their cooperation in mobilising disaster relief resources on a timely and structured basis;
- (h) establish arrangements with regional airlines and shipping lines in order to ensure access to their facilities on a priority basis in the event of a disaster;
- (i) establish and maintain relations with international relief organisations in order to facilitate accessing their resources in the event of a disaster;
- (j) mobilise and organise technical assistance from interested national and international bodies to assist in the

development of disaster response capabilities of Participating States;

- (k) provide a clearing house for relevant information and intelligence in all matters relating to disasters including current research being undertaken in all related regional institutions;
- (l) on the basis of a distress call or on such other request as may be agreed after consultation with, Sub-Regional Disaster Response Operational Units be capable of triggering the mechanism;
- (m) provide assistance on request to the heads of national disaster management Agencies in the event of a disaster;
- (n) on request liaise with the disciplined forces of the sending States both in the planning and response stage of any operation mounted after the activation of the triggering mechanism;
- (o) assist in the development of comprehensive disaster management capabilities and review periodically the disaster response capabilities of Participating States giving due consideration to the availability of resources for immediate and timely response to disaster situations;
- (p) establish collaborative arrangements and mechanisms with regional disaster management stakeholders to promote disaster loss reduction; and
- (q) prepare the administrative and emergency budgets of CDEMA for submission to the MCC.

2. The Coordinating Unit shall have the following programming areas

- (a) education, research and information;
- (b) finance and administration;
- (c) preparedness and response;
- (d) mitigation and research; and
- (e) any other programming area which the Council may determine.

ARTICLE XIV

EXECUTIVE DIRECTOR

1. There shall be an Executive Director who shall manage the Coordinating Unit and be the Chief Executive Officer of CDEMA.
2. The Executive Director shall be appointed for a term not exceeding three years and is eligible for reappointment.
3. A Deputy Executive Director shall be appointed by the MCC on the recommendation of the Executive Director for a term not exceeding three years and is eligible for reappointment.
4. The Executive Director and the Deputy Executive Director shall be appointed from among persons with experience in matters relating to emergency relief operations, social welfare and management.

ARTICLE XV

RESPONSIBILITIES OF THE EXECUTIVE DIRECTOR

1. The Executive Director shall have the following responsibilities
 - (a) implementing the policies of CDEMA;
 - (b) the administration and coordination of activities and programmes of CDEMA;
 - (c) the control of the revenue and expenditure of CDEMA as approved by the Council;
 - (d) the creation and implementation of special programmes and projects where necessary;
 - (e) ensuring that correct procedures are followed with respect to all matters within the competence of CDEMA;
 - (f) prepare an administrative budget biennially;
 - (g) cause the accounts of CDEMA and the Fund to be audited annually by external auditors approved by the MCC;
 - (h) submit annually the audited financial report of CDEMA and the Fund and the budget of CDEMA to the Council for its consideration;

- (i) submit an annual report to the Council on the work of CDEMA;
- (j) appoint the staff of the Coordinating Unit except the Deputy Executive Director;
- (k) subject to the approval of the MCC, the determination of the terms and conditions of service of the staff of the Coordinating Unit; and
- (l) the performance of any other function or duty in pursuance of the objectives of CDEMA.

2. In the performance of their duties the Executive Director and staff of CDEMA shall seek to maintain their independence and shall not engage in any activity or function in a manner which would compromise the functional independence of CDEMA.

ARTICLE XVI

SUB-REGIONAL DISASTER EMERGENCY RESPONSE OPERATIONAL UNITS

1. Where, pursuant to paragraph (e) of Article VIII, the Council has designated Sub-Regional Disaster Emergency Response Operational Units, such bodies shall

- (a) acquire and maintain on an updated basis comprehensive information on the facilities and services available in each of the Participating States for which they have responsibility;
- (b) maintain and test on a regular basis communications with the Coordinating Unit and with critical response agencies under the control of national relief organisations;
- (c) maintain independent fuel and power supplies and ensure that relevant physical facilities are in a condition to withstand a major disaster; and
- (d) keep and maintain at the operational focal point in serviceable and optimal working condition an equipment package containing essential items determined by the TAC.

2. In making a designation referred to in paragraph 1 of this Article, the Council shall identify the States for which the Sub-Regional Disaster Response Operational Unit concerned shall have responsibility.

ARTICLE XVII

THE ADMINISTRATIVE BUDGET

1. CDEMA shall establish an administrative budget, the funds of which shall be used to defray the ordinary expenses incurred in administering its affairs.

2. Participating States shall contribute to the administrative budget in accordance with a scale of assessment recommended by the MCC and approved by the Council.

3. A Participating State whose economy has been severely affected by a natural disaster may request a waiver of assessed contributions to the budget of CDEMA.

4. The Executive Director, with the approval of the Council, shall establish financial regulations for CDEMA and the Fund in accordance with international accounting standards.

ARTICLE XVIII

EMERGENCY ASSISTANCE FUND

1. CDEMA shall establish an Emergency Assistance Fund (hereinafter referred to as the Fund) which shall be used solely to defray expenses incurred in connection with the rendering of assistance in the event of a disaster occurring in a Participating State.

2. Participating States shall contribute to the Fund in accordance with a scale of assessment recommended by the MCC and approved by the Council.

3. A Participating State whose economy has been severely affected by a natural disaster may request a waiver of assessed contributions to the budget of the Fund.

4. The Executive Director may accept contributions to the Fund from external sources on such conditions as may be prescribed by them and agreed by the MCC for the benefit of all Participating States.

ARTICLE XIX

UNDERTAKINGS OF PARTICIPATING STATES

Without prejudice to the requirement to discharge any other obligations assumed under or in connection with this Agreement, Participating States undertake to

- (a) establish or maintain, as the case may be, national relief organisations capable of responding swiftly, effectively and in a coordinated manner to disasters in Participating States;
- (b) establish emergency disaster planning groups and define national policies and priorities in the event of disasters;
- (c) provide national disaster management agencies with adequate support including named emergency coordinators, liaison officers within key government Ministries, emergency services and access to utilities;
- (d) ensure that national disaster management agencies and their coordinators with specific functions and responsibilities to ensure the development of an adequate response capability to support adequate responses to national disasters;
- (e) define the role and functions of key agencies including the Security Services, Health and Public Works in disaster emergency response management and establish a system for regular review of their procedures to ensure coordinated response;
- (f) establish and equip a suitable emergency operations centre capable of handling emergency telecommunications and coordinating emergency response involving relevant services;
- (g) develop and maintain an emergency telecommunications system based on the most appropriate technology to ensure the coordination of emergency operations among stakeholders;
- (h) establish and strengthen procedures for coping with major disaster threats and maintain review systems for testing the procedures through drills and simulations;
- (i) review and rationalise legal arrangements for disaster mitigation and emergency action;

- (j) review and catalogue past disaster events and list credible future emergency event responses and identify and map areas with special problems and peculiarities such as flood or landslide prone areas;
- (k) establish data bases of key resources, both human and material, and a system for keeping them current and to computerise and integrate them into an automated emergency information system;
- (l) develop, in collaboration with competent governmental agencies, an emergency shelter policy and programme involving the full participation of local officials from community-based organisations;
- (m) develop and review a system for community participation, local mobilisation and counter disaster action in the event of isolation;
- (n) develop strategies for loss reduction in the public and private sectors focusing on vital economic activities and critical facilities;
- (o) develop a system and procedures for damage assessment in order to facilitate rapid and effective post impact evaluation;
- (p) develop and implement a comprehensive disaster public awareness, information and education programme involving media houses, schools, voluntary agencies, and other institutions in order to ensure public participation and community involvement in the disaster management system;
- (q) develop and implement appropriate training programmes for persons involved in the disaster management system;
- (r) identify and seek participation in bilateral and multilateral technical cooperation programmes designed to develop disaster management capabilities;
- (s) identify and maintain in a state of readiness and make available immediately on request by the Executive Director relevant material and human resources in the event of disaster.

ARTICLE XX

RELATIONS WITH GOVERNMENTAL AND NON-GOVERNMENTAL INSTITUTIONS

1. CDEMA may conclude agreements with Governmental, Inter-Governmental and non-Governmental Organisations or Agencies in order to achieve its objectives.
2. Unless the Council decides otherwise, the Executive Director may negotiate and conclude such Agreements on behalf of CDEMA.

ARTICLE XXI

DISCIPLINED FORCES

1. Where, in response to a request for assistance by any affected Participating State, members of the disciplined forces of another Participating State are dispatched to any part of the territory of the requesting State, the Executive Director shall, subject to the express prior agreement of the competent authorities of the requesting State, designate a Special Coordinator from among the senior officers of such forces, acting after consultation with the Chiefs of Staff or Commanding Officers of the disciplined forces concerned.
2. The Special Coordinator shall be charged with responsibility for coordinating the disaster relief efforts of the disciplined forces in the affected Participating State.
3. No member of the disciplined forces of a Participating State shall be dispatched to the territory of an affected Participating State without the express prior consent of that State.
4. In the absence of a contrary agreement between the requesting State and the sending State to that effect, members of the disciplined forces of the sending State shall be under the control and disciplinary authority of their commanding officer.

ARTICLE XXII

DIRECTION AND CONTROL OF ASSISTANCE

1. Subject to paragraph 2, the overall direction, control, coordination and supervision of assistance dispatched to a requesting State shall be the responsibility within its territory of the requesting State.

2. Where the assistance from a sending State involves personnel other than disciplined forces, the sending State shall designate in consultation with the requesting State the person who should be in charge of, retain immediate operational supervision over the personnel, equipment and supplies provided by it. The person so designated shall exercise such supervision in cooperation with the competent authorities of the requesting State.

3. The requesting State shall provide to the extent of its capabilities local facilities and services for proper and efficient administration of communications assistance. In particular, the requesting State shall ensure that any ground situations brought into its territory for the purpose of rendering assistance shall be duly licensed to transmit and receive information in accordance with its domestic laws and regulations.

4. In the absence of a contrary agreement, ownership of equipment and materials dispatched to a requesting State by a sending State during periods of assistance shall be unaffected and their prompt return shall be facilitated at the request of the sending State.

5. The requesting State shall ensure the protection of personnel, equipment and materials brought into its territory for the purpose of rendering assistance during times of disaster.

ARTICLE XXIII

COMPETENT AUTHORITIES AND CONTACT POINTS

1. In the absence of a contrary indication from a Participating State the competent authority and contact point authorised to make requests for and accept offers of assistance in the event of a disaster shall be the head of the National Disaster Management Agency.

2. The Coordinating Unit shall be immediately informed of any change of the contact and focal points of Participating States.

3. The Coordinating Unit shall expeditiously inform Participating States and relevant international Organisations with the information referred to in paragraphs 1 and 2 of this Article.

ARTICLE XXIV

CONFIDENTIALITY AND PUBLIC STATEMENTS

1. Participating States their officials and the staff of CDEMA shall respect and not disclose any confidential information received by them in connection with assistance requested in the event of a disaster and the information shall be used exclusively for its intended purpose.

2. The sending State shall use its best endeavours to coordinate with the requesting State before releasing information to the public on the assistance provided in connection with a disaster.

ARTICLE XXV

COSTS OF PROVIDING ASSISTANCE

Except as may otherwise be agreed between them, the expenses incurred by a sending State in providing assistance to a requesting State shall be defrayed by the sending State.

ARTICLE XXVI

TERMINATION OF ASSISTANCE

1. The Executive Director shall, subject to paragraph 2, after consultation with the requesting State, determine the period of response to a disaster.

2. The requesting or sending State may, at any time, after appropriate consultation and by notification in writing terminates the receipt or provision of assistance received or provided under this Agreement.

ARTICLE XXVII

PRIVILEGES, IMMUNITIES AND FACILITIES TO BE ACCORDED A SENDING STATE AND ITS PERSONNEL

1. The requesting State shall accord to personnel of the sending State and personnel acting on its behalf the necessary privileges, immunities and facilities for the performance of their functions in rendering assistance.

2. Subject to prior notification by the sending State and acceptance by the requesting State of the personnel of the sending State or personnel acting on its behalf, the requesting State shall

- (a) grant to such personnel immunity from arrest and detention;
- (b) grant to such personnel immunity from legal process in respect of words spoken or written and in respect of all acts and omissions in rendering assistance and the immunity shall continue notwithstanding that the period of assistance has been terminated;
- (c) grant to such personnel exemption from taxes, duties or other charges, in respect of the performance of their functions in rendering assistance, as is accorded to diplomatic personnel in accordance with international law;
- (d) facilitate the entry into, stay in and departure from its territory of personnel so notified and accepted.

3. The requesting State shall

- (a) accord the sending State exemption from taxes, duties or other charges on equipment and property brought into the territory of the requesting State by the sending State for the purpose of rendering assistance;
- (b) confer immunity from seizure, attachment or requisition of such equipment and property and ensure their return to the sending State; and
- (c) as far as possible, facilitate access to medical care of sick or injured personnel deployed during the period of assistance.

4. Persons enjoying privileges and immunities under this Article shall respect the law and regulations of the requesting State and shall not interfere in its domestic affairs.

ARTICLE XXVIII

TRANSIT OF PERSONNEL, EQUIPMENT AND PROPERTY

Participating States shall, at the request of the requesting State or the sending State, take all measures necessary to facilitate the transit through their territory of duly notified personnel, equipment and property involved in rendering assistance to or from a requesting State.

ARTICLE XXIX

CLAIMS AND COMPENSATION

1. Participating States shall cooperate in order to facilitate the determination of legal proceedings and the settlement of claims under this Article.

2. In the absence of an agreement, the requesting State shall, in respect of death or injury to persons or damage to or loss of property or damage to the environment caused within its territory or under its control or jurisdiction by personnel of the requested State in the course of providing the assistance

- (a) not bring any legal proceedings against the sending State or persons or other legal entities acting on its behalf;
- (b) assume responsibility for dealing with legal proceedings and claims brought by third parties against the sending State or against persons or other legal entities acting on its behalf except in cases of willful misconduct or gross negligence;
- (c) hold the sending State or persons or other legal entities acting on its behalf harmless in respect of legal proceedings referred to in subparagraph (b);
- (d) compensate the sending State or persons or other legal entities acting on its behalf for death or injury to personnel of the sending State or persons or other legal entities acting on its behalf; and
- (e) for loss of or damage to non-consumable equipment or materials brought to the requesting State for the purpose of rendering assistance except in case of willful misconduct or gross negligence by personnel of the sending State.

3. Nothing in this Article shall be construed to prevent compensation or indemnity available under any applicable international agreement or national law of a Participating State nor to require the requesting State to apply paragraph 2 of this Article, in whole or in part, to its nationals or permanent residents.

ARTICLE XXX

PRIVILEGES AND IMMUNITIES OF CDEMA

1. CDEMA its property and assets wherever located and by whomsoever held shall enjoy immunity from every form of legal process except in so far as in any particular case the Executive Director has expressly waived its immunity. Any waiver of immunity shall not extend to any measure of execution.

2. Save as provided in paragraph 1 the property of CDEMA wherever located and by whomsoever held shall be immune from search, acquisition, confiscation, expropriation and any other form of interference, whether by executive, administrative or judicial action.

3. This Article shall not be construed as preventing the Government of a Participating State from taking appropriate action in connection with the investigation of accidents involving motor vehicles belonging to or operated on behalf of CDEMA.

ARTICLE XXXI

ARCHIVES OF CDEMA

1. The archives of CDEMA shall be inviolable wherever located.

2. Proprietary data, confidential information and personnel records shall not be placed in archives open to public inspection.

ARTICLE XXXII

FACILITIES IN RESPECT OF COMMUNICATIONS

1. CDEMA shall enjoy in Participating States freedom of communication for its official communications.

2. The official correspondence and all other forms of official communications shall be inviolable.

3. CDEMA shall have the right to use codes and to dispatch and receive correspondence by courier in sealed bags, which shall not be searched or detained unless the competent authorities have reasonable grounds to believe that the sealed bags do not only contain articles, correspondence or documents for the exclusive official use of CDEMA, in which case the bag shall be opened only in the presence of an officer of CDEMA.

4. This Article shall not preclude the adoption of appropriate security measures in the interest of a participating State or its Government.

ARTICLE XXXIII

REPRESENTATIVES AND STAFF OF CDEMA

Representatives of Participating States attending meetings of the Council, the MCC or the TAC as well as the Executive Director and other staff of CDEMA shall enjoy in the territory of each Participating State

- (a) immunity from legal process with respect to acts performed by them in the exercise of their functions, except to the extent that the State which they represent or CDEMA as appropriate expressly waives this immunity in any particular case;
- (b) where they are not nationals of that Participating State, the same exemptions from immigration restrictions, alien registration requirements and national service obligations, the same facilities as regards exchange restrictions and the same treatment in respect of traveling facilities as are accorded by that Participating State to the representatives, officials and employees of comparable rank of other Participating States.

ARTICLE XXXIV

EXEMPTIONS FROM TAXES AND CUSTOMS DUTIES

1. CDEMA, its assets and property, income, operations and transactions shall be exempt from all direct taxation and goods imported or exported for its official use shall be exempt from all customs duties. CDEMA shall not claim exemption from taxes which are no more than charges for services rendered.

2. Where purchases of goods or services of substantial value necessary for the official activities of CDEMA are made by or behalf of CDEMA, and where the price of the goods or services includes taxes or duties, appropriate measures shall, to the extent practicable, be taken by Participating States to grant exemptions from such taxes or duties or provide for their reimbursement.

3. Goods imported or purchased under an exemption provided for in this Article shall not be sold or otherwise disposed of in the territory

of the Participating State granting the exemptions, except under conditions agreed with that Participating Member State.

4. No tax shall be levied by Participating States in respect of salaries, other types of emoluments or any other form of payment made by CDEMA to the Executive Director and staff of CDEMA as well as experts performing missions for CDEMA.

5. Paragraph 4 does not apply where the Executive Director or the staff member of CDEMA is a national of the Participating State where CDEMA is located.

ARTICLE XXXV

SUSPENSION OF RIGHTS AND PRIVILEGES OF MEMBERSHIP

1. A Participating State which is in arrears in the payment of its financial contribution to the administrative budget of CDEMA shall have no vote in the Council or the MCC if the amount of the arrears equals or exceeds the amount of the contributions due from it for the preceding two financial years.

2. A Participating State which has violated the obligations assumed under this Agreement may be suspended from the exercise of the rights and privileges of membership by the Council.

3. A determination within the meaning of paragraph 2 of this Article shall be made by the Council.

ARTICLE XXXVI

ARBITRATION

1. Any dispute between a State Party and CDEMA arising out of the interpretation or application of this Agreement, which is not settled by negotiation or other agreed mode of settlement, shall be referred for final decision to an arbitral tribunal of three arbitrators at the instance of either party.

2. Each party shall be entitled to appoint one arbitrator within fifteen days following the request of either party and the two arbitrators shall within fifteen days following the date of their appointments appoint a third arbitrator who shall be the Chairperson of the arbitral tribunal.

3. Where any party fails to appoint an arbitrator under paragraph 2 the other party may request the Secretary-General of the Caribbean Community to appoint an arbitrator within ten days.

4. Where the two arbitrators appointed under paragraph 2 fail to appoint a third arbitrator either party may request the Secretary General of the Caribbean Community to appoint an arbitrator within ten days.

5. The arbitral tribunal shall establish its own rules of procedure.

ARTICLE XXXVII

SIGNATURE AND RATIFICATION

The Agreement shall be open for signature by the States listed in the Annex to this Agreement and shall be subject to ratification in accordance with their respective constitutional procedures.

ARTICLE XXXVIII

ENTRY INTO FORCE

This Agreement shall enter into force when Instruments of Ratification have been deposited by at least seven of the States listed in the Annex.

ARTICLE XXXIX

ACCESSION

1. This Agreement shall be open to accession by any Caribbean State which on the recommendation of the MCC has been admitted to membership of the CDEMA by the Council on such terms and conditions as the Council may decide.

2. A State admitted to membership in accordance with paragraph 1 shall deposit an Instrument of Accession with the Secretary-General of the Caribbean Community.

ARTICLE XL

DEPOSITARY

1. The original of this Agreement and any amendments thereto shall be deposited with the Secretary General of the Caribbean Community.

2. The Secretary-General of the Caribbean Community shall notify the Coordinating Unit of CDEMA of the Deposit of Instruments of

Ratification or Accession, as the case may be and forward certified copies of such Instruments to the Coordinating Unit.

ARTICLE XLI

AMENDMENTS

1. Any Participating State may propose amendments to this Agreement.

2. Any proposal for an amendment to this Agreement shall be submitted to the Coordinating Unit which shall transmit it to the MCC with its comments.

3. The MCC shall consider the proposal together with the comments of the Coordinating Unit and make a recommendation to the Council.

4. The Council shall consider the proposal for amendment and may adopt it with such modifications as it deems necessary.

5. Amendments shall enter into force when ratified by all Participating States.

ARTICLE XLII

WITHDRAWAL

1. Any Participating State may withdraw from CDEMA.

2. Any Participating State wishing to withdraw from CDEMA shall give to the Coordinating Unit twelve months' written notice of its intention to do so and the Executive Director shall immediately notify the other Participating States.

3. The notice given under paragraph 2 of this Article may be withdrawn at any time prior to the date on which withdrawal is to take effect.

4. A Participating State withdrawing from CDEMA shall honour any financial obligations duly assumed by it during the period of its membership.

ARTICLE XLIII

PROVISIONAL APPLICATION

Seven or more of the Participating States listed in the Annex to this Agreement may, upon signature, or at any later date before this Agreement enters into force, declare their intention to apply it provisionally.

IN WITNESS WHEREOF the undersigned representatives, being duly authorised by their respective Governments, have signed this Agreement.

ANNEX

Anguilla
Antigua and Barbuda
The Bahamas
Barbados
Belize
British Virgin Islands
Dominica (the Commonwealth of Dominica)
Grenada
Guyana (Cooperative Republic of)
Haiti
Jamaica
Montserrat
Saint Christopher and Nevis
Saint Lucia
Saint Vincent and the Grenadines
Suriname
Trinidad and Tobago
Turks and Caicos Islands

SECTION 2 - BUILDING AND COMPOUND

Type of Building	<input type="checkbox"/> Concrete	<input type="checkbox"/> Wooden		
	<input type="checkbox"/> Both	<input type="checkbox"/> Other		
Ventilation	<input type="checkbox"/> Natural	<input type="checkbox"/> Adequate	<input type="checkbox"/> Inadequate	
	<input type="checkbox"/> Artificial	<input type="checkbox"/> Adequate	<input type="checkbox"/> Inadequate	
	<input type="checkbox"/> A/C	<input type="checkbox"/> Adequate	<input type="checkbox"/> Inadequate	
	<input type="checkbox"/> Fan	<input type="checkbox"/> Adequate	<input type="checkbox"/> Inadequate	
Lighting	<input type="checkbox"/> Natural	<input type="checkbox"/> Adequate	<input type="checkbox"/> Inadequate	
	<input type="checkbox"/> Artificial	<input type="checkbox"/> Adequate	<input type="checkbox"/> Inadequate	
Kitchen Facility		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Type of Cooking Apparatus		<input type="checkbox"/> Electrical Range	<input type="checkbox"/> Gas Range	
		<input type="checkbox"/> Coal Pot	<input type="checkbox"/> Other	
Adequate and proper food storage area		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Other storage area		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Adequate and proper refuse collection & storage facility		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Laundry area and facilities		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Is building insect and rodent proof?		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Evidence of insects or rodents		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Condition of yard & surrounding		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Adequate recreation area		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Strategically placed		<input type="checkbox"/> Yes	<input type="checkbox"/> No	
Comments				

SECTION 3 - BATHROOMS/ SANITARY CONVENIENCES

No. of Rest Rooms _____

- | | | |
|---------------------------------|---------------------------------------|---|
| <input type="checkbox"/> Male | <input type="checkbox"/> Satisfactory | <input type="checkbox"/> Unsatisfactory |
| <input type="checkbox"/> Female | <input type="checkbox"/> Satisfactory | <input type="checkbox"/> Unsatisfactory |
| <input type="checkbox"/> Unisex | <input type="checkbox"/> Satisfactory | <input type="checkbox"/> Unsatisfactory |

No. of Rest Rooms with Showers _____

- | | | | | | |
|------------------------|-------|-------|-------------------------------------|-------|---|
| No. of toilets | _____ | _____ | <input type="checkbox"/> Functional | _____ | <input type="checkbox"/> Non-functional |
| No. of urinals | _____ | _____ | <input type="checkbox"/> Functional | _____ | <input type="checkbox"/> Non-functional |
| No. of lavatory basins | _____ | _____ | <input type="checkbox"/> Functional | _____ | <input type="checkbox"/> Non-functional |

- | | | | |
|-----------------|--|---------------------------------------|---|
| Sewage Disposal | <input type="checkbox"/> Public Sewer | <input type="checkbox"/> Satisfactory | <input type="checkbox"/> Unsatisfactory |
| | <input type="checkbox"/> On-site Septic Tank | <input type="checkbox"/> Satisfactory | <input type="checkbox"/> Unsatisfactory |
| | <input type="checkbox"/> Other _____ | <input type="checkbox"/> Satisfactory | <input type="checkbox"/> Unsatisfactory |

Comments _____

SECTION 4 - WATER SOURCE

- | | | |
|--------------|---|---|
| Water Source | <input type="checkbox"/> Public Utility | <input type="checkbox"/> Private |
| | <input type="checkbox"/> On-Site Well | <input type="checkbox"/> On-Site Cistern/Water Tank |
| | <input type="checkbox"/> Other _____ | |

If Cistern, Capacity _____

- | | | |
|--------------------------------------|------------------------------|-----------------------------|
| Cistern adequately screened | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Filters provided | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
| Cistern adequately secured/protected | <input type="checkbox"/> Yes | <input type="checkbox"/> No |

- | | | |
|---|------------------------------|-----------------------------|
| On-Site Potable (i.e., bottled or drinkable) water supply | <input type="checkbox"/> Yes | <input type="checkbox"/> No |
|---|------------------------------|-----------------------------|

Comments _____

SECTION 5 - RAINFALL FLOODING POTENTIAL

Is the building's ground floor elevation on an equal or higher elevation than the ground level? Yes No

Height of ground floor from ground level— _____

Is facility prone to flooding? Yes No

If multi-storied, does the building have a floor above the ground level suitable as shelter? Yes No

Comments _____

Recommendations _____

Date of Inspection _____

Environmental Health Officer

FORM 2

[Section 23(10)]

DEPARTMENT OF DISASTER MANAGEMENT

SHELTER RE-INSPECTION CHECKLIST

The following checklist is for use in conducting a periodic re-inspection of a building and its site for continued use as an emergency shelter. (Refer to the guidelines for specific information about each item).

SECTION 1 – GENERAL INFORMATION

Type of Building	<input type="checkbox"/> Concrete	<input type="checkbox"/> Wooden
	<input type="checkbox"/> Both	<input type="checkbox"/> Other _____
No. of Floor(s)/ Stories-	<input type="checkbox"/> Ground	<input type="checkbox"/> Single
	<input type="checkbox"/> Two	<input type="checkbox"/> Three
Floor(s) Occupied	<input type="checkbox"/> Ground	<input type="checkbox"/> 1st
	<input type="checkbox"/> 2nd	<input type="checkbox"/> 3rd
Access to Upper Level	<input type="checkbox"/> Stairway with Hand Rail	
	<input type="checkbox"/> Stairway without Hand Rail	
	<input type="checkbox"/> Other _____	
Access Ramp to building for disabled	<input type="checkbox"/> Yes	<input type="checkbox"/> No
Section(s) of building to be used as shelter	_____	
Condition of Ceiling	<input type="checkbox"/> Satisfactory	<input type="checkbox"/> Unsatisfactory
Walls	<input type="checkbox"/> Satisfactory	<input type="checkbox"/> Unsatisfactory
Floors	<input type="checkbox"/> Satisfactory	<input type="checkbox"/> Unsatisfactory

SECTION 2 – BUILDING LOCATION (SITE)

Building Location (Site)	Yes	No
2.1 Is accessibility easy?	<input type="checkbox"/>	<input type="checkbox"/>
2.2 Is parking space adequate?	<input type="checkbox"/>	<input type="checkbox"/>
2.3 Is building threatened by mudslides or landslides?	<input type="checkbox"/>	<input type="checkbox"/>
2.4 Is building threatened by falling trees, boulders, power lines or flying debris?	<input type="checkbox"/>	<input type="checkbox"/>
2.5 Is building located close to the source of any potential Hazardous materials?	<input type="checkbox"/>	<input type="checkbox"/>
2.6 Is building threatened by a dam or reservoir failure?	<input type="checkbox"/>	<input type="checkbox"/>

SECTION 3 – BUILDING STRUCTURE

Building structure	Yes	No
3.1 Are two entrances and exits available?	<input type="checkbox"/>	<input type="checkbox"/>
3.2 Are walls generally in good condition and free of large cracks?	<input type="checkbox"/>	<input type="checkbox"/>
3.3 Are windows and glass doors protected by shutters?	<input type="checkbox"/>	<input type="checkbox"/>
3.4 Are frames properly affixed to walls?	<input type="checkbox"/>	<input type="checkbox"/>
3.5 Is roof free of leaks and secure?	<input type="checkbox"/>	<input type="checkbox"/>
3.6 Are building contents adequate and secure?	<input type="checkbox"/>	<input type="checkbox"/>

SECTION 4 – AMENITIES AND SERVICES

Amenities and services	Yes	No
4.1 Is there power supply (Mains)?	<input type="checkbox"/>	<input type="checkbox"/>
4.2 Is there stand-by power supply?	<input type="checkbox"/>	<input type="checkbox"/>
4.3 Is the water system functional?	<input type="checkbox"/>	<input type="checkbox"/>
4.4 Are there laundry facilities?	<input type="checkbox"/>	<input type="checkbox"/>
4.5 Are sanitary facilities functional?	<input type="checkbox"/>	<input type="checkbox"/>
4.6 Is septic system functioning well?	<input type="checkbox"/>	<input type="checkbox"/>
4.7 Are kitchen facilities functional?	<input type="checkbox"/>	<input type="checkbox"/>
4.8 Is food storage area clean?	<input type="checkbox"/>	<input type="checkbox"/>
4.9 Is shelter area free of refuse and garbage?	<input type="checkbox"/>	<input type="checkbox"/>
4.10 Is shelter area free of mosquitoes and pests?	<input type="checkbox"/>	<input type="checkbox"/>

Shelter

Location

Inspector

DEPARTMENT OF DISASTER MANAGEMENT
CHECKLIST FOR MAINTENANCE

Shelter

Location

Inspector

Item	Yes	No	Location
Loose bolts	<input type="checkbox"/>	<input type="checkbox"/>	_____
Loose fasteners	<input type="checkbox"/>	<input type="checkbox"/>	_____
Missing bolts/fasteners	<input type="checkbox"/>	<input type="checkbox"/>	_____
Leaking pipes	<input type="checkbox"/>	<input type="checkbox"/>	_____
Broken windows	<input type="checkbox"/>	<input type="checkbox"/>	_____
Broken doors	<input type="checkbox"/>	<input type="checkbox"/>	_____
Windows/doors won't open	<input type="checkbox"/>	<input type="checkbox"/>	_____
Leaking roof	<input type="checkbox"/>	<input type="checkbox"/>	_____
Corrosion	<input type="checkbox"/>	<input type="checkbox"/>	_____
Toilets not working	<input type="checkbox"/>	<input type="checkbox"/>	_____
Faulty electrical(s)	<input type="checkbox"/>	<input type="checkbox"/>	_____
Loose or bare wires	<input type="checkbox"/>	<input type="checkbox"/>	_____
Faulty water faucets	<input type="checkbox"/>	<input type="checkbox"/>	_____
Septic tank/soak area failing	<input type="checkbox"/>	<input type="checkbox"/>	_____

DEPARTMENT OF DISASTER MANAGEMENT

CERTIFICATE OF INSPECTION

This certifies that the building located at _____ and called the _____ building, has been duly inspected and has satisfactorily met all requirements of the National Shelters and Housing Policy and is recommended/designated as an emergency shelter to accommodate a maximum of (number) _____ persons for the following uses—

Temporary shelter
for protection from a hurricane
following a disaster not caused by an earthquake
following an earthquake

Long term shelter
following a hurricane
following an earthquake
for refugees from other events

Date _____ Inspector _____

Title _____

Comments/Recommendations

SCHEDULE 3

[Section 50(3)]

LIST OF CRITICAL FACILITIES AGENCIES

Critical Infrastructure SECTOR GROUPS	CRITICAL FACILITY AGENCIES	CRITICAL IN INFRASTRUCTURE RESOURCES
Information and Communication Technology	Radio Stations, Television Stations, Cellular/Internet/Land Line Providers, Cable Television/Satellite Providers Telephone Services Management Unit (TSMU), Department of Information Technology (DOIT)	<ul style="list-style-type: none"> • Telecommunications, Broadcasting Systems, Hardware, Network and Internet
Finance & Economy	Financial Services Commission, Social Security Board BVI Tourist Board, major Hotels i.e. occupancy of 20 or more guests, Banking & Insurance Industry	<ul style="list-style-type: none"> • Banking, Financial Services & Economic Resources: Banking, Securities, Investments and Country Economic Resources
Water & Environment	Water and Sewerage Department, Environmental Health Division, Solid Waste Department, Conservation and Fisheries Department, Ocean Conversion (BVI) Ltd.	<ul style="list-style-type: none"> • Water Supply- Drinking and Waste Water Management • Environmental Protection, Desalinisation Plant, Incinerator
Transportation	BVI Airports Authority BVI Ports Authority Public Works Department Boat yards and marinas	<ul style="list-style-type: none"> • Air Port • Sea Port • Ferry Operators • Roads/Ghuts
Safety	Attorney General Chambers, Supreme Court, Magistrate's Court Royal Virgin Islands Police Force,	<ul style="list-style-type: none"> • Law Enforcement Services First Responders • Emergency Services Public Safety

	Virgin Islands Fire and Rescue Services, HM Prisons, HM Customs, Immigration Department Department of Disaster Management	<ul style="list-style-type: none"> • Relief Emergency Shelters
Governance	Post Office, Facilities Management Unit (Central Administration Complex), National Parks Trust Governor's Office/Foreign and Commonwealth Office, Ministry of Education Department of Education, Schools (public and private from pre-primary to tertiary)	<ul style="list-style-type: none"> • Services, Facilities Information Networks, Assets and key National Sites & Monuments, Continuity of Government • Education
Health & Welfare	BVI Health Services, Ministry of Health & Social Development, Hospital Services, Community Health Services – Clinics), Private Hospitals, Private Health Clinics, Private Medical Centres Funeral Homes	<ul style="list-style-type: none"> • Public Health Services, Including Prevention Surveillance, Laboratory Services And Personal Health Services, Care Of The Elderly and Disabled
Energy	BVI Electricity Cooperation Fuel Bulk Storage Suppliers	<ul style="list-style-type: none"> • Energy - Electrical Power Supply • Oil and Gas Storage
Food Supply & Securities	Agricultural Department, BVI Fishing Complex, Bulk Food Storage/Suppliers.	<ul style="list-style-type: none"> • Food Production, Stocks and Storage

SCHEDULE 4

[Section 59(1)(a)]

DISASTERS HAZARDS

1. Geological Hazards
(a) Earthquakes
(b) Volcanic eruptions
(c) Landslides
(d) Tsunamis
(e) Seiches
2. Hydro-Meteorological Hazards
(a) Tropical cyclones
(b) Floods
(c) Droughts
(d) Extreme temperatures
(e) Severe storms
(f) Hailstorms
(g) Tornadoes
3. Chemical Hazards
(a) Explosions
(b) Spills
(c) Fires
(d) Gas leaks
(e) BLEVE
(f) Radioactive emissions
4. Health-Ecological Hazards
(a) Intoxication
(b) Poisonings
(c) Epidemics
(d) Plagues
(e) Air pollution
(f) Water pollution
(g) Soil contamination
(h) Extinction of flora and fauna species

5. Social-Organisational Hazards
(a) Wars
(b) Meetings and demonstrations
(c) Thefts
(d) Sabotage
(e) Interruption of services (blackouts, water supply, communications, etc)
(f) Terrorism
(g) Crowds (because of sports matches or religious gatherings)
(h) Accidents (cars, railroads, planes, etc)
(i) Bomb threats
6. Cascading Hazards – to include but not limited to
(a) Fires generated by earthquakes, explosions etc.
(b) Floods generated by hurricanes

Passed by the Legislative Council this day of , 2018.

Speaker.

Clerk of the House of Assembly

OBJECTS AND REASONS

The Bill seeks to provide a comprehensive mechanism for disaster management in the Virgin Islands, the rights and obligations of the Virgin Islands under the Agreement establishing the Caribbean Disaster Management Agency and also seeks to repeal the current legal framework related to disaster management in the Virgin Islands.

The Bill is comprised of preliminary provisions and thirteen Parts.

Part I of the Bill makes up the preliminary provisions (Clauses 1 to 4). Clause 1 provides for the short title and commencement of the legislation. Clause 2 provides for the interpretation section. The interpretation section is used in the legislation as an aid to clarity and to achieve consistency.

Clause 3 provides for the application section in which it is stipulated that this law shall apply concurrently with any other law relating to disaster management and provides that in case of inconsistency between this law and that other law, this law shall prevail.

Clause 4 stipulates that the Agreement establishing the Caribbean Disaster Management Agency has the force of law in the Virgin Islands.

Part II of the Bill relates to the role of the Governor and contains clauses 5 and 6.

Clause 5 provides that the Governor has power to declare by Proclamation an area in the Virgin Islands or the entire Virgin Islands as a disaster area.

Clause 6 provides for the duties of the Governor which include causing the preparation of a comprehensive plan and programme for emergency management in the Virgin Islands.

Part III of the Bill governs the Role of the Premier with Clause 7 defining the Functions of the Premier.

Part IV relates to the Department of Disaster Management and contains clauses 8 to 34.

This Part provides for the establishment of the Department of Disaster Management, the object of the Department (Clause 8), powers of the Department (Clause 10), and other staff of the Department (Clause 11).

Clause 12 provides for Functions of the Department which shall include the implementation of laws and authorities governing disaster management. Clause 13 stipulates the functions of the Director including identification of hazards and assessment of risks to persons, public and private property.

Clause 14 stipulates that the Director shall prepare annual reports of the activities of the Department for submission to the Governor and ultimately to the Cabinet for approval.

Clause 15 provides for Directions to be given to the Director by the Governor in relation to policy to be followed in the exercise of functions and duties imposed on the Director.

Clause 16 provides for the National Disaster Management Plan and other plans which shall comprise a statement of the contingency arrangements for responding to the threat or aftermath of an emergency or disaster in the Virgin Islands.

Clause 17 provides for establishment of a communications link by the Director under which he or she is required to develop and maintain a directory of the public and private entities that are involved in disaster management.

Clause 18 requires the Director to have in place a disaster management information system.

Clause 19 provides for prevention, mitigation and recovery. The Director is required to give guidance to public and private entities relating to assessment and prevention or reduction of the risk of disasters.

Clause 20 provides for the establishment by the Director of a National Emergency Operations Centre and where necessary, supplementary emergency operations centres. The principle object of the National Emergency Operations Centre is stipulated in clause 21 which is to reduce confusion and duplication of efforts amongst lead agencies in disaster management.

The functions of the National Emergency Operations Centre are provided in clause 22 and include providing a centralised coordination and control of emergency or disaster response and operations.

Clause 23 provides for shelters. The Director is required under this clause to maintain a list of premises to be used as shelters.

Clause 24 provides for the maintenance by the Director of a register of volunteers. Persons who wish to volunteer for purposes of assisting in emergency or disaster situations are required to submit their names to the Director for registration under this clause.

Clause 25 provides for the functions of hazard inspectors including inspection of premises for purposes of entering the premises on the list of shelters.

Clause 26 provides for the conduct of inspections by the hazard inspector under this Act. It gives the hazard inspector authority to enter premises for purposes of

carrying out a function under this Act. In performing his functions the hazard inspector shall require the consent of the owner of the premises and if that consent cannot be obtained, then the hazard inspector shall apply to the Magistrate to authorise entry on the premises.

Clause 26 gives the Director of the Virgin Islands Shipping Registry power to require the owner of a vessel or other obstruction to remove or destroy the vessel or the obstruction where the vessel or obstruction is an impediment to navigation and the like. Where the vessel or obstruction is on the ports or harbour, the British Virgin Islands Ports Authority shall be in charge of the removal or destruction.

Clause 27 identifies the situations under which a vessel or object will be deemed a hazard.

Clause 28 to 31 gives powers to both the Virgin Islands Shipping Registry and the British Virgin Islands Ports Authority to raise and remove any vessel or other obstruction.

Under clause 32, the Director is required to assess the potential for loss of life and injury to persons where there is a threat of a disaster and the clause requires the Director to consult the Governor prior to the Governor issuing an order of evacuation.

Clause 33 provides for the notice of evacuation which must indicate the nature of the disaster and the area of the Virgin Islands to be evacuated.

Clause 34 makes provision for employees who assist in emergency situations. Employers of such employees are required under this clause to pay the employees for the period for which they have worked during the emergency situation and that period must not exceed two weeks.

Part V of the Bill provides for the National Disaster Management Council. It contains clauses 35-44. Clause 35 provides for the establishment and composition of the National Disaster Management Council.

Clause 36 provides for the functions of the Council which shall include making recommendations with respect to preparation of the National Disaster Management Plan and providing technical guidance with respect to formulation of policy guidelines related to coordination of disaster management.

Under clause 37, Council is required to provide a coherent, transparent and inclusive policy on disaster management appropriate for the Virgin Islands.

Clause 38 gives the Council powers to establish committees with particular responsibilities including preparedness for, mitigation of and response and recovery from emergencies and disasters.

Clauses 39 to 41 provide for convening of meetings of Council, quorum and tenure of office of Council.

Clause 42 stipulates that any meeting of the Council is open to members of the Public. It also states that the members of the public are non-participating observers in the meetings of Council.

Clauses 43 and 44 provide for minutes of the meetings of Council and the voting procedure respectively.

Part VI provides for zonal committees. Under clause 45, the Director is charged with establishing zonal committees for the purposes of this law and clauses 46 and 47 stipulates functions of the zonal committee and the power of the zonal committee to regulate its own procedure.

Part VII provides for obligations of persons involved in disaster management.

Clause 48 requires every head of government or statutory entity to ensure that there is a liaison officer for purposes of communicating with the Director in relation to procedures of the entity related to disaster management.

Clause 49 provides the list of Essential Service Workers who are required to report to their designated work location. Clause 50 requires every head of government or statutory entity and critical facility agency to prepare a disaster management plan and to review and update the plan annually.

Clause 51 provides for implementation of the National Disaster Management, Strategy, Programming Framework, Monitoring, Evaluating and Reporting mechanism by the head of government or statutory entity or zonal committee for purposes of guiding implementation of the disaster management plan.

Clause 52 provides that every head of government or statutory entity and critical facility agency shall ensure that all staff members undertake annual training and exercises related to disaster management.

Clause 53 requires every head of government or statutory entity and critical facility agency to submit a list of available resources that may be used or are identified for use in disaster management to the Director.

Every head of government or statutory entity and zonal committee is required under clause 54 to supply to the Director in the prescribed manner any information that the Director requires.

Clause 55 requires every head of government or statutory entity, critical facility agency and zonal committee to prepare a report on damage assessment after a disaster.

Under clause 56, any person other than the Governor, who exercises any power related to disaster preparedness and response under this law must consult the Director prior to the exercise of that power.

Part VIII provides for the National Multi- Hazard Alert System and declaration of disasters. Clause 57 stipulates that there shall be a National Multi- Hazard Alert System for the Virgin Islands. The system, under clause 58 shall be operated under the supervision of the Director. Clause 59 provides that the Governor may declare a disaster for the Virgin Islands. Clause 60 provides for public and official access and that anyone under the authority of the Director may declare a hazard alert.

Part IX addresses the protection of utilities and communication systems. Clause 61 provides for offences.

Part X deals with specially vulnerable areas. Cabinet under clause 62 may on recommendation of the Council designate an area as specially vulnerable to a disaster.

Clause 63 authorises the Director to prepare for approval of Cabinet, special area precautionary plans for the mitigation and prevention of disasters in specially vulnerable areas.

Clause 64 stipulates that Cabinet shall before approving a special area precautionary plan cause the draft plan to be published in the *Gazette* for purposes of inviting the public to submit comments on the draft plan.

Clause 65 requires the Director to submit any public comments on the draft plan to the Governor who shall cause the report and the draft plan to be reviewed by the Council and ultimately transmitted to Cabinet for approval. The approved plan shall under this clause be published in the *Gazette*.

Part XI provides for the Emergency Disaster Fund. Clause 66 establishes the Fund which shall comprise monies appropriated by the House of Assembly or grants and donations. Clause 67 provides for the application of the Fund which is for recovery efforts and it may also be used, on approval by the Minister, for assisting other countries that have suffered disasters by way of loans and grants.

Clause 68 provides for administration of the Fund by a Fund Committee which shall comprise the Financial Secretary, the Director and not more than three persons appointed by the Governor after consultation with the Minister responsible for finance.

Under clause 69, no money shall be withdrawn from the Fund except on the authority of a warrant under the hand of the Minister.

Clause 70 provides that the accounts of the Fund shall be audited by the Auditor General and the Auditor General may for that purpose have access to the all books and records and returns or other documents relating to the accounts.

Part XII provides for international instruments and memoranda of understanding. Under this Part (clause 71), Cabinet may after consultation with the Council make an Order, applying to the Virgin Islands, the provisions of any regional or international instrument relating to emergencies and disasters which applies to the Virgin Islands.

Part XIII makes provision for miscellaneous matters. Clause 72 provides for Telecommunications during a disaster whereas all cellular companies in the Virgin Island shall enter into roaming agreements with each other in the event of a disaster. Clause 73 provides for protection of persons exercising powers, duties or obligations under this law from liability where the powers, duties or obligations are exercised in good faith.

Clause 74 provides for compensation to any person authorised under this law who has suffered personal injury, loss or damage to property in the course of performing functions under the law.

Clause 75 provides for penalties and stipulates that any person who commits an offence under this law is liable on summary convictions to a prescribed fine.

Clause 76 stipulates that information against any person accused of committing an offence created by this Act or regulations may be laid by the Director, a member of the Police Force or any person authorised by the Governor after consultation with the Director.

Clause 77 gives the Governor power to amend the Schedules to this law.

Clause 78 gives the Governor power to make Regulations for the purposes of implementing the provisions of this law. The Regulations made under this law may confer on shelter managers and shelter officers the authority to refuse admission to persons to the shelters to prevent overcrowding, to prohibit bringing of weapons in the shelters and to enforce criminal law among others.

Clause 79 repeals the Disaster Management Act, 2003 (Act No. 3 of 2003).

Clause 80 provides for continuation of rights and liabilities under the repealed Disaster Management Act.

Clause 81 stipulates that this law binds the Crown.

The Bill contains four schedules.

Schedule 1 provides for the Agreement establishing the Caribbean Disaster Management Agency (CDEMA) to which the Virgin Islands is a State Party and it stipulates the rights and obligations of the Virgin Islands under the agreement.

Schedule 2 prescribes in Form I, the Public Health Inspection form for emergency shelters and in Form 2, the Shelter Re-Inspection Checklist and Certificate of Inspection.

Schedule 3 provides for the critical facility agencies as indicated in clause 49(3).

Schedule 4 provides for the disasters hazards as indicated in clause 58(1)(a).

Attorney General

Date: