



REPUBLIC OF NAURU

# NATIONAL DISASTER RISK MANAGEMENT ACT 2016

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No. 2 of 2017

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An Act to repeal the *National Disaster Risk Management Act 2008* and replace it with a new law that provides for matters relating to disaster risk management in Nauru; to establish under law the National Emergency Services, the national disaster risk committee, and the National Disaster Risk Management Council and for other related purposes

Certified: 26<sup>th</sup> January 2017

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Enacted by the Parliament of Nauru as follows:

## **PART 1 – PRELIMINARY**

### **1 Short title**

This Act may be cited as the *National Disaster Risk Management Act 2016*.

### **2 Commencement**

This Act commences upon certification by the Speaker.

## **PART 2 – INTERPRETATION, PURPOSE AND APPLICATION**

### ***Division 1 - Interpretation***

### **3 Definitions**

In this Act:

**‘Agency’** means a Government Agency or non-government agency and includes all essential services;

**‘assisting actor’** means any assisting international actor and any assisting domestic actor responding to a disaster in Nauru;

**‘assisting domestic actor’** means any non-profit entity established under the laws of Nauru which is responding to a disaster within Nauru;

**‘assisting international actor’** means any foreign state, organisation, entity or individual responding to a disaster in Nauru or transiting through Nauru to respond to a disaster in another country;

**‘assisting State’** means any foreign government that is providing disaster relief or initial recovery assistance to Nauru, whether through its civilian or military institutions;

**‘authorised officer’** means a person engaged to respond to disaster by the Council;

**‘Centre’** means the National Emergency Operations Centre established under section 21;

**‘civil society organisations’** means non-governmental and non-profit organisations;

**‘community’** means the people within a District and their community committee or elected community representatives;

**'Council'** means the National Disaster Risk Management Council established under section 16;

**'Director of Civil Aviation'** means the person appointed in accordance with section 24 of the *Civil Aviation Act* 2011;

**'disaster'** means a serious disruption of the functioning of society, which poses a significant, widespread threat to human life, health, property or the environment whether arising from accidents, nature or human activity, whether developing suddenly or as the result of long-term processes, but excluding armed conflict or civil strife;

**'disaster area'** means any part of Nauru in which a State of Disaster has been declared in accordance with section 26;

**'disaster management'** means all activities that are undertaken while preparing and responding to disasters including the disaster declared area;

**'disaster relief'** means the goods, equipment, services and internationally donated funds provided to meet the immediate humanitarian needs of disaster-affected communities;

**'disaster risk management'** includes all activities undertaken before, during and after disaster whether be structural or non-structural;

**'Disaster Risk Reduction (DRR)'** means minimising and reducing disaster risk or vulnerabilities so as to avoid adverse impacts of hazards within the broad context of sustainable development;

**'emergency activity'** means an Agency:

- (a) performing a role or discharging a responsibility in accordance with the National Disaster Risk Management Plan;
- (b) training or practicing for an activity referred to in (a) or being on active standby duty;
- (c) travelling to or from a place where an activity referred to in (a) or (b) has occurred or is about to occur; or
- (d) the President exercising any of his or her powers under this Act;

**'equipment'** means physical items, other than goods, which come from international sources and are designated for use in disaster relief or initial recovery assistance, including, but not limited to, vehicles, medical, and telecommunications equipment;

**'focal point agency'** means the Department of National Emergency Services established by section 12;

**'goods'** means supplies from international sources intended to be provided to disaster-affected communities for their relief or initial recovery;

**'Government Agency'** means:

- (a) any office or position created by the *Public Service Act 2016*;
- (b) an instrumentality of the Republic;
- (c) any other body corporate or unincorporated body constituted by or under an Act or an agreement for public purpose;
- (d) any member or officer of such an instrumentality or body;
- (e) any other person in the service of the Government of Nauru upon whom any function, power, duty or responsibility is conferred by any Act;

**'Harbour Master'** means the person appointed in accordance with section 16 of the *Port Authority Act 2015* and includes a Deputy Harbour Master;

**'initial recovery assistance'** means goods, equipment, services and internationally donated funds intended to restore or improve the pre-disaster living conditions of disaster-affected communities, including initiatives to increase resilience to disasters and reduce disaster risk;

**'internationally donated funds'** means any funds donated by foreign persons or entities directly to the Government or to an assisting domestic actor for the purposes of disaster relief or initial recovery assistance;

**'international disaster assistance'** means disaster relief and initial recovery assistance that is provided by assisting international actors, or imported or otherwise brought to Nauru from abroad by or on behalf of assisting domestic actors;

**'international disaster relief period'** means the period following a disaster during which the relevant legal facilities described in Part 7 are made available to eligible actors for the purpose of providing disaster relief;

**'international initial recovery period'** means the period following a disaster during which the relevant legal facilities described in Part 7 are made available to eligible actors for the purpose of providing initial recovery assistance;

**'international personnel'** means the staff, and volunteers of any assisting actor providing disaster relief or initial recovery assistance in Nauru, being persons who are neither citizens of Nauru or domiciled in Nauru prior to their recruitment by the assisting actor;

**'legal facilities'** means the special entitlements and exemptions that are made available to eligible actors under Part 7, Division 5;

**'Minister'** means the Minister who has been given responsibility for the administration of this Act;

**'mitigation'** means regulatory and physical measures undertaken in anticipation of the occurrence of a potential disaster, including preparedness and long-term risk reduction measures to ensure that disasters are prevented or their effects mitigated;

**'National Disaster Risk Management Plan'** means the plan required under section 23;

**'National Disaster Risk Management Report'** means the report provided to Parliament under section 16(4)(l);

**'Plan'** means the National Disaster Risk Management Plan required under section 23;

**'professionals'** includes health professionals, architectural, engineering and other relevant professionals;

**'Secretary'** means the Secretary for the Department of National Emergency Services including any person appointed to act in that position;

**'services'** means activities undertaken by assisting actors to assist disaster-affected communities with their relief or initial recovery, such as search and rescue activities, medical care, protection services and information services;

**'Sphere Project Minimum Standards in Humanitarian Response'** means minimum standards or requirements to respond to the needs of the affected communities;

**'State of Disaster'** means a State of Disaster declared under section 26;

**'unsolicited bilateral donations'** are donations of goods from non-eligible actors that have not been approved by the Department of National Emergency Services and can be identified by the following characteristics:

- (a) unannounced arrival in the country or arrival with very short notice;
- (b) faulty or incomplete paperwork;
- (c) no clearly defined consignee;
- (d) non-priority types of relief goods, or non-standard items;



- (e) incorrect packaging; and
- (f) unsuitable conditions of items.

#### **4 Meaning of event**

- (1) An **'event'** means any of the following:
  - (a) a cyclone, earthquake, flood, storm, storm surge, king tide, drought, fire, tsunami or other natural or human induced occurrences;
  - (b) climate change induced occurrences;
  - (c) an infestation, plague or epidemic; but
  - (d) does not include armed conflict or civil strife.
- (2) An event may be natural or caused by human acts or omissions.

### ***Division 2 – Purpose of Act***

#### **5 Purpose of Act**

The purpose of this Act is as follows:

- (a) to help communities in Nauru:
  - (i) mitigate the potential adverse effects of an event; and
  - (ii) prepare for managing the effects of an event; and
  - (iii) effectively respond to, and recover from a disaster;
- (b) to provide for effective disaster management for Nauru; and
- (c) to provide procedures for effective coordination of international disaster relief assistance.

#### **6 How to achieve purpose**

The purpose of this Act will be achieved by making provision for the following:

- (a) establishing community disaster management committees;
- (b) preparing national disaster management plans and guidelines;
- (c) preparing agency or departmental disaster risk management plans;
- (d) ensuring communities receive appropriate information about preparing for, responding to and recovering from a disaster;

- (e) declaring a State of Disaster; and
- (f) establishing the Department of National Emergency Services, the National Disaster Risk Management Council, the National Emergency Operation Centre and the National Controller.

## **7 Guiding principles**

This Act must be administered according to the following guiding principles:

- (a) disaster management must be planned according to the following four phases:
  - (i) the taking of preventative measures to prevent the likelihood of an event occurring or, if an event occurs, to reduce the severity of the event;
  - (ii) the taking of preparatory measures to ensure that, if an event occurs, communities, resources and services are able to cope with the effects of the event;
  - (iii) the taking of appropriate measures to respond to an event, including action taken and measures planned in anticipation of, during and immediately after an event to ensure that its effects are minimised and that persons affected are given immediate relief and support;
  - (iv) the taking of appropriate measures to recover from an event, including actions taken to support disaster-affected communities in the reconstruction of infrastructure, the restoration of emotional, social, economic and physical wellbeing, and the restoration of the environment;
- (b) all events, whether natural or caused by human acts or omissions, should be managed in accordance with the following:
  - (i) a strategic policy framework developed by the Department of National Emergency Services, in consultation with the Council;
  - (ii) the Republic's National Disaster Risk Management Plan;
  - (iii) any disaster management guidelines or standard operating procedures;
- (c) Community groups must provide the necessary support, when requested, to the Department of National Emergency Services and the Council to carry out disaster operations.

### ***Division 3 – Application of Act***

#### **8 Act binds all persons**

- (1) This Act binds all persons, including the Government.
- (2) Subsection (1) does not make the Government liable for an offence.

#### **9 Relationship to other Acts**

- (1) Nothing in this Act prevents a person empowered to declare an emergency, from declaring an emergency under another Act.
- (2) The existence of a declaration mentioned in subsection (1) does not prevent the declaration of a State of Disaster under this Act.

#### **10 Powers under this Act and other Acts**

Any disaster declared powers and rescue powers under this Act does not limit the powers that a person or officer may have under any other Act.

#### **11 Directions about powers under other Acts during a State of Disaster**

- (1) This section applies if there is a declared State of Disaster.
- (2) The President may give directions about the circumstances in which a power under another Act may be exercised during a State of Disaster.
- (3) Despite subsection (2), the President must not give directions about the way in which the power may be exercised.
- (4) A direction under subsection (2) may be given:
  - (a) only to the person who may exercise the power under the other Act; and
  - (b) only if it is necessary for the effective management of the disaster for which a State of Disaster is declared.
- (5) A direction under subsection (2):
  - (a) may be general or limited to a particular class of persons; and
  - (b) may be given on conditions.

## **PART 3 – NATIONAL EMERGENCY SERVICES**

### **12 Establishment of National Emergency Services**

- (1) The Department of National Emergency Services is hereby established.
- (2) The head of the Department of National Emergency Services is the Secretary appointed by Cabinet pursuant to the *Public Service Act* 2016.

### **13 Structure of National Emergency Services**

The Department of National Emergency Services consists of the following offices and services:

- (a) Nauru National Disaster Risk Management Office;
- (b) Nauru Rescue and Fire Services;
- (c) Nauru Ambulance Services;
- (d) Nauru Life Guard Services; and
- (e) Nauru Meteorology Services.

### **14 Functions, duties and powers of the Secretary for National Emergency Services**

- (1) The Secretary for the Department of National Emergency Services has the following functions in relation to Disaster Risk Management:
  - (a) coordinating the following services:
    - (i) Nauru Rescue and Fire Services;
    - (ii) Nauru Ambulance Services;
    - (iii) Nauru Life Guard Services;
    - (iv) Nauru Meteorology Services;
  - (b) coordinating the maintenance of the National Disaster Risk Management Plan and all necessary sub-plans and frameworks for approval by the Council;
  - (c) facilitating the implementation of the National Disaster Risk Management Plan;
  - (d) preparing, reviewing and testing the National Disaster Risk Management Plan to ensure it properly protects life, property

and essential infrastructure from the potential or actual impact of any Disaster;

- (e) issuance of early warning messages of potential threats;
- (f) coordinating any necessary improvements to the National Disaster Risk Management Plan;
- (g) providing Disaster Risk Management advice and secretarial and administrative support to the Council;
- (h) making recommendations to the Council in relation to the constitution of Committees established under sections 17 and 18;
- (i) coordinating the effective management of the National Emergency Operation Centre;
- (j) facilitating all necessary training exercises, post-disaster Recovery and post-exercise debriefs and preparing all necessary reports to the Council;
- (k) facilitating the preparation of the National Risk Disaster Management Report to Parliament in accordance with section 16;
- (l) providing advice and regular reports to the Council on the activities of the Disaster Reduction Committee and the Recovery Advisory Committee established under sections 17 and 18;
- (m) reporting to the Council on the preparedness of all Agencies for a disaster;
- (n) conducting community education and awareness programs to assist communities in their ability to contribute to the mitigation of, response to, and recovery from a disaster;
- (o) coordinating and reporting to the Council on the development of a database of disaster Management information including but not limited to hazard maps, vulnerability assessment reports and resulting maps, training information, exercise reports, disaster Management resources and emergency contact details;
- (p) serving as the National Controller in accordance with section 20; and
- (q) performing or undertaking any other activity as directed by the Council.

(2) The Secretary must:

- (a) undertake periodic audits of all Government Agencies to determine their preparedness levels and whether they have taken all necessary steps to implement the National Disaster Risk Management Plan, and report on their state of preparedness and any deficiencies in the implementation of the Plan to the Council;
  - (b) provide a report to the Council on or before 30<sup>th</sup> January of each year on the audit conducted in subsection (2) (a);
  - (c) undertake periodic audits of all essential services to determine whether:
    - (i) essential services have a business continuity plan; and
    - (ii) essential services have the ability to implement the business continuity plan;
  - (d) provide a report to the Council on or before 30<sup>th</sup> January of each year on the audit conducted in subsection (2) (c);
  - (e) assist essential services in developing a business continuity plan.
- (3) For the purpose of performing an audit under subsection (2), the Secretary may by written request, compel any Government Agency or essential service to provide to the Secretary any information reasonably necessary to assist in the performance of the audit.
- (4) Within 28 days of receiving a request under subsection (3), the Government Agency or essential service to which the request has been sent must provide the information to the Secretary unless:
- (a) the Secretary has granted an extension of time for the provision of the information; or
  - (b) the Secretary has agreed that the Government Agency or essential service is not able to give the information.
- (5) If the Secretary has granted an extension under subsection (4) (a), the Government Agency or essential service must provide the information within the time specified in the extension.
- (6) The Secretary may interview any employee of any Government Agency or essential service for the purpose of performing an audit.

## **15 Delegation by the Secretary**

The Secretary may delegate with or without conditions, to any person or class of persons engaged in the administration of this Act, any or all of the Secretary's functions, duties or powers under this Act.

## **PART 4 – NATIONAL DISASTER RISK MANAGEMENT COUNCIL**

### **16 Establishment of Council**

- (1) A National Disaster Risk Management Council is established.
- (2) The Chairperson of the Council is the Minister.
- (3) The Council consists of the following persons or their nominee:
  - (a) Secretary for the Department of National Emergency Services who will also be the Secretary of the Council;
  - (b) Commissioner for Police;
  - (c) Secretary for the Department of Health and Medical Services;
  - (d) Secretary for the Department of Finance;
  - (e) Secretary for the Department of Education;
  - (f) Secretary for the Department of Justice and Border Control;
  - (g) Secretary for the Department of Multi-Cultural Affairs;
  - (h) Secretary for the Department of Commerce, Industry and Environment;
  - (i) Secretary for the Department of Foreign Affairs and Trade;
  - (j) Secretary for the Department of Information, Communication and Technology;
  - (k) Secretary for the Department of Transport;
  - (l) a representative from the Persons with Disabilities group in Nauru;
  - (m) a representative from civil society organisations in Nauru; and
  - (n) on the recommendation of the Secretary, any other person to be nominated by the Cabinet.
- (4) The Council will:
  - (a) have overall responsibility for disaster management and emergency responses during disaster;
  - (b) formulate policy for disaster risk reduction and disaster management;

- (c) approve the disaster risk management plan and ensure it provides for proper disaster risk reduction and disaster management;
  - (d) endorse reports of implementation of the disaster risk management plan;
  - (e) coordinate activities of Agencies in relation to the mitigation of, preparedness for, response to and recovery from disasters;
  - (f) provide direction to and receive reports from the Secretary for National Emergency Services;
  - (g) provide advice to the President in relation to the declaration of a State of Disaster and its subsequent revocation;
  - (h) provide advice and support to Cabinet in relation to disaster risk reduction and disaster management for national planning;
  - (i) establish the Disaster Reduction Committee and Recovery Advisory Committee and ensure that meetings are convened as required;
  - (j) ensure that effective community awareness and education programs are conducted to assist communities in their ability to contribute to the mitigation of and response to disaster;
  - (k) ensure that all relevant support is provided to the Centre; and
  - (l) prepare on or before 30 September of each, a Disaster Management Report to be tabled before parliament detailing the activities of the Council and the implementation of the disaster risk management plan.
- (5) Ordinary meetings of the Council must be convened at least once every quarter and on such dates as determined by the Minister in accordance with disaster management needs.
  - (6) Emergency Council meetings may be convened as required by the Minister.
  - (7) During a declared State of Disaster, the Council must convene at least once a week.

## **17**

### **Establishment of Disaster Risk Reduction Committee**

- (1) There must be established within the Council a Disaster Risk Reduction Committee.
- (2) The Chairperson of the Disaster Risk Reduction Committee is the Secretary for the Department of Finance.



- (3) The Council must establish a terms of reference for the Committee.
- (4) The Committee must submit reports to the Council whenever a Council meeting is held.
- (5) The Committee must report on the achievements and progress that the Republic had made on the regional and International Disaster Risk Reduction policy framework.

**18 Establishment of Recovery Advisory Committee**

- (1) The Council may establish a Recovery Advisory Committee consisting of current Council members and any other person that the Council may appoint.
- (2) The Council may appoint an interim Chairperson for the Committee.
- (3) The substantive Chairperson for the Committee must be chosen during the first meeting of the Committee.
- (4) Terms of reference for the Committee must be established by the Council.
- (5) The Committee must submit reports to the Council on request.

**19 Community Disaster Management Committees**

- (1) The Council must establish Disaster Management Committees within the communities in Nauru.
- (2) The Community Disaster Management Committees are to consist of church leaders, traditional leaders, youth leaders, men and women's groups and other suitable persons.

**20 National Controller**

- (1) This section establishes the position of National Controller.
- (2) The Secretary for National Emergency Services or a person acting in that position shall serve as the National Controller.
- (3) The National Controller directs the response to a disaster and reports to the Council on the response to a disaster.
- (4) The National Controller may:
  - (a) determine the priority of the response roles of any Agencies in the event of a State of Disaster;
  - (b) direct and coordinate the activities of Agencies in the event of a State of Disaster; and

- (c) by Order, delegate with or without conditions to any person or class of persons employed or engaged in the administration of this Act, all or any of the powers or functions of the National Controller under this Act.
- (5) In addition to, and without limiting the generality of subsection (3), during a State of Disaster, the National Controller may:
- (a) allocate and coordinate the use of all available resources of the Government which the National Controller, in consultation with the Council, considers necessary or desirable for responding to the Disaster;
  - (b) direct any Government Agency to do or refrain from doing any act or to exercise or perform or refrain from exercising or performing any function, power, duty or responsibility;
  - (c) in reasonable and necessary circumstances and only for the purpose of responding to a disaster, commandeer and use any person's property;
  - (d) control and restrict entry into, movement within and departure from the disaster Area or any part of it; and
  - (e) evacuate any or all persons from the disaster Area or any part of it.
- (6) If a direction is given to a Government Agency under subsection (4)(b), the Government Agency must make every reasonable effort to comply with that direction and the direction prevails over anything to the contrary in any other Act or law.
- (7) Cabinet will determine the amount of compensation payable to a person who sustains pecuniary loss or damage as a result of the National Controller exercising his or her powers under subsection (4)(c).
- (8) A person aggrieved by a decision under subsection (7) may apply to the Supreme Court of Nauru for review of a determination made by the Cabinet.

## **21 National Emergency Operations Centre**

There is established a National Emergency Operations Centre which will:

- (a) coordinate activities of disaster monitoring, warning and immediate post-disaster response including disaster relief work;
- (b) be activated when a specific threat of disaster develops or when a disaster occurs;

- (c) when activated, be manned on a 24 hour basis from teams drawn from the public service and agencies;
- (d) carry out its functions according to its Standard Operating Procedures;
- (e) obtain regular situation reports from personnel stationed throughout the communities;
- (f) coordinate requests for assistance during emergency situations.

**22 Location of National Emergency Operations Centre**

- (1) The Council must nominate a suitable location for the housing of the National Emergency Operations Centre.
- (2) The Council must facilitate staffing of the Centre and its maintenance and resourcing.

**PART 5 – NATIONAL DISASTER RISK MANAGEMENT PLAN**

**23 Requirement for a National Disaster Risk Management Plan**

- (1) The Department of National Emergency Services must, in consultation with Council representatives, prepare a National Disaster Risk Management Plan for Nauru.
- (2) The Plan must include provisions for the following:
  - (a) a strategic policy framework for disaster risk management;
  - (b) the roles and responsibilities of parties involved in disaster operations and disaster management;
  - (c) the coordination of disaster operations and activities performed by the parties mentioned in (b) and in accordance with International Humanitarian system which include the cluster arrangements;
  - (d) events that are likely to happen in Nauru;
  - (e) priorities for disaster management in Nauru;
  - (f) the matters stated in the disaster management guidelines as matters to be included in the Plan;
  - (g) current emergency response plan or emergency action plan formulated and adopted by agencies;
  - (h) other matters about disaster management considered appropriate or that are prescribed under regulation.

**24 Contents of Plan**

The National Disaster Risk Management Plan must be consistent with the national disaster risk management standards and national disaster risk management guidelines.

**25 Reviewing and renewing Plan**

- (1) The National Disaster Risk Management Plan must be reviewed on an annual basis.
- (2) Once a review of the Plan is completed, any updated Plan must be made available to the Cabinet.

**PART 6 - STATE OF DISASTER**

**Division 1 – Powers of the President to declare State of Disaster**

**26 Declaration of a State of Disaster**

The President may declare a State of Disaster for the whole or part of Nauru, on the advice of the Council, if the President is satisfied that:

- (a) a disaster has happened, is happening or is likely to happen;
- (b) it is necessary for authorised officers to exercise declared disaster powers to prevent or minimise any of the following:
  - (i) loss of human life;
  - (ii) illness or injury to humans;
  - (iii) property loss or damage;
  - (iv) damage to the environment.

**27 Notice of Declaration**

- (1) The declaration made under section 26 must be broadcast on national television, radio, and mobile messaging services.
- (2) As soon as practicable after the declaration is made, the President must give notice of the declaration by Gazette Notice.
- (3) The Gazette Notice must include:
  - (a) the time and date of the declaration; and
  - (b) any details considered necessary.

**28 Duration of declared State of Disaster**

The State of Disaster:

- (a) starts when it is declared under section 26; and
- (b) unless any of the following happens, ends 30 days after the day it is declared:
  - (i) the President revokes the declaration sooner; or
  - (ii) a Notice under section 29 extends the State of Disaster for a further 30 days.

**29 Extending State of Disaster**

- (1) The President may, on the advice of the Council, extend a State of Disaster for a further 30 days.
- (2) An extension of a State of Disaster must be done by Notice in the Government Gazette.
- (3) The President may revoke an extension to a State of Disaster under subsection (1) sooner.

**30 Ending State of Disaster**

- (1) As soon as the President, on the advice of the Council, is satisfied that it is no longer necessary for authorised officers to exercise declared disaster powers, the President must end the State of Disaster.
- (2) If the President ends a State of Disaster, the President must direct the Secretary to inform all authorised officers exercising declared disaster powers of the ending of the State of Disaster.
- (3) A decision to declare the end to a State of Disaster must be broadcast on national television, radio, and mobile messaging services.
- (4) The President must as soon as practicable, give notice of the ending of the State of Disaster, by Gazette Notice.
- (5) An extension to a State of Disaster made under section 29 ends upon the ending of the State of Disaster under this section.

**Division 2 – Authorising persons and powers for a State of Disaster**

**31 Application of Division**

This Division applies if a State of Disaster is declared under section 26.

## **32 Authorisation for State of Disaster**

- (1) The President may, through the National Controller, authorise any of the following persons to exercise declared disaster powers during a State of Disaster:
  - (a) an ambulance officer;
  - (b) a fire officer;
  - (c) a health officer;
  - (d) a life guard;
  - (e) a police officer;
  - (f) a correctional service officer; or
  - (g) any other officer or person.
- (2) Persons authorised under subsection (1) are authorised officers for the purpose of this Act.
- (3) An authorisation under subsection (1):
  - (a) may be general or limited to a particular class officers;
  - (b) may be given on conditions; and
  - (c) may be given orally or in writing but if given orally must be put in writing as soon as practicable.

## **33 General provision about powers**

- (1) An authorised officer has the powers given under this Act.
- (2) However, an authorised officer may exercise a power only:
  - (a) during the period of the State of Disaster; and
  - (b) to do any of the following:
    - (i) ensure public safety or public order;
    - (ii) prevent or minimise loss of human life, or illness or injury to humans or animals;
    - (iii) prevent or minimise property loss or damage, or damage to the environment;
    - (iv) otherwise prepare for, respond to or recover from a State of Disaster.

- (3) An authorised officer may exercise a power only subject to the conditions, if any, on which the person is authorised.
- (4) Nothing in this Act takes away any power that is given to a person or an officer under any other Act.

## **34 Powers**

- (1) An authorised officer may do any of the following:
  - (a) control the movement of persons, animals or vehicles within, into, out of or around any particular areas;
  - (b) give a direction to a person to regulate the movement of the person, an animal or a person within, into, out of or around any particular areas;
  - (c) evacuate persons or animals from a particular area;
  - (d) take into a particular area the equipment, persons or material the authorised officer reasonably requires for exercising a power under this Act;
  - (e) contain an animal or substance in a particular area;
  - (f) remove or destroy any animal, vegetation or substance within a particular area;
  - (g) remove, dismantle, demolish or destroy a vehicle, or a building or a structure in a particular area;
  - (h) shut off or disconnect a supply of fuel, gas, electricity or water, and take and use the supply of fuel, gas, electricity or water;
  - (i) turn off, or disconnect any motor or equipment;
  - (j) open a container or other thing, or dismantle equipment;
  - (k) build temporary structures or barricades;
  - (l) close any road;
  - (m) maintain, restore or prevent the destruction of essential services;
  - (n) require a person to give reasonable assistance to allow the authorised officer to exercise his or her powers.
- (2) An authorised officer may enter any building or property without a warrant or the consent of the owner if exercising his or her powers under this Act.

- (3) In the exercise of his or her powers under this Act, an authorised officer may use reasonable force against any person.
- (4) When giving a direction under this Act, an authorised office must ensure to inform the other person that it is an offence to fail to comply with a directive unless the person has a reasonable excuse.

## **PART 7 – FACILITATION OF INTERNATIONAL DISASTER RELIEF ASSISTANCE**

### **35 Existing rights, privileges and immunities**

Nothing in this Part may be interpreted to limit or reduce existing rights, privileges or immunities of any assisting actor as separately recognised by other laws or agreements of Nauru and any status or headquarters agreement between Nauru and an assisting international actor.

### **Division 1 – Initiation and Termination of International Assistance**

#### **36 Assessment of the need for international disaster relief assistance**

- (1) Immediately after the onset of a major disaster, and in consultation with the Council and Cabinet, the Secretary may make a determination, based on initial estimates, as to whether domestic capacities are likely to be sufficient to attend to the needs of affected persons and communities.
- (2) The assessment in subsection (1) may also be made prior to the onset of an imminent major disaster.
- (3) In the event of a determination that domestic response capacities are not likely to be sufficient due to the scale of the disaster, the Secretary may advise the Council that an immediate request be made for international disaster assistance which must be formally submitted to the President for approval.
- (4) If such a recommendation is made, the Secretary must in consultation with the Council, develop a preliminary list of goods, equipment and services required and make this list available to potential assisting international actors immediately upon the commencement of an international disaster relief period pursuant to section 39.
- (5) The list prepared in accordance with subsection (4) must be updated as needed to reflect new information and changing circumstances.
- (6) A determination that domestic capacities are likely to be sufficient and that international disaster assistance is therefore unnecessary may be reviewed and rescinded by the Council at any time, in light of updated information.



**37**

**Request for international disaster assistance**

- (1) Upon the advice of the Secretary in section 36(3), the President may:
  - (a) make a request for international disaster assistance specifically directed to particular international actors; or
  - (b) make a general request for international disaster assistance directed to the international community as a whole.
- (2) A request made under subsection (1) must be accompanied by:
  - (a) information as to the extent and type of assistance required, based on the list prepared by the Secretary in accordance with section 36(4), unless this would lead to undue delay; and
  - (b) information on the procedures for assisting international actors to make offers or provide assistance.

**38**

**Offers and acceptance of international assistance**

- (1) Except as provided in subsection (6), assisting international actors may provide international disaster assistance in Nauru only if they have made an offer that has been accepted pursuant to this section.
- (2) Assisting States and intergovernmental organisations interested in providing international disaster assistance must direct offers of assistance to the Department of Foreign Affairs and Trade through the different Nauruan Embassies, High Commissions or Consulates.
- (3) Offers made under subsection (2) must indicate, in general terms, the type, amount and estimated duration of assistance to be provided.
- (4) The Department of Foreign Affairs and Trade will submit the information to the President who will seek the advice and recommendation of the Secretary for the Department of National Emergency Services and the Council.
- (5) Upon the recommendation of the Secretary and the Council, the President may direct the Secretary for Foreign Affairs and Trade to accept such offers, in whole or in part.
- (6) In the event of a general request for international disaster assistance made pursuant to section 37(1)(b), assisting international actors other than assisting States and intergovernmental organisations are exempt from making formal offers.
- (7) Despite being exempt under subsection (6), assisting international actors must comply with the terms of the general request and must inform the Secretary for the Department of National Emergency

Services of the type, amount and estimated duration of assistance to be provided at least 24 hours in advance of their arrival.

- (8) In the absence of a general request for international disaster assistance, assisting international actors may make unsolicited offers to the Department of Foreign Affairs and Trade through Nauruan Embassies, High Commissions or Consulates and the Secretary for Foreign Affairs and Trade, and upon direction from the President, the Secretary for the Department of National Emergency Services and the Council, may accept such offers, in whole or in part.

### **39 International disaster relief and initial recovery periods**

- (1) The international disaster relief and initial recovery periods will both commence simultaneously upon the issuance of a request for international disaster assistance under section 37, or upon acceptance of an offer under section 38, and may continue until terminated in accordance with section 40 or 41 as appropriate.
- (2) The legal facilities described in Division 5 will only be effective during the international disaster relief and initial recovery periods.

### **40 Termination of the international disaster relief period**

- (1) If, based on updated needs assessments and other information and in consultation with assisting actors, the Council is satisfied that the need for disaster relief is coming to an end, the Council, through the Secretary, may advise the President to approve a termination date for the international disaster relief period, with due consideration for the impact on ongoing relief activities.
- (2) An announcement of a termination date:
  - (a) must be made to assisting actors no later than 20 days prior to the proposed date; and
  - (b) must include information about the anticipated ongoing needs for goods and services related to the initial recovery assistance, if any.
- (3) Upon the issuance of an announcement pursuant to this section, the Secretary must consult with assisting actors actively involved in disaster relief work in order to reduce any negative impact from the termination and, where necessary, to ensure an adequate handover of responsibilities.

### **41 Termination of the international initial recovery period**

- (1) If, based on updated needs assessments and other information and in consultation with assisting actors, the Council is satisfied that the need for international initial recover assistance is coming to an end,

the Council may advise the President to approve a termination date for the international initial recovery period, with due consideration for the impact on ongoing initial recovery activities.

- (2) The termination date must be announced to assisting actors no later than 40 days prior to the proposed date.
- (3) Upon the issuance of an announcement made in accordance with this section, the Secretary must consult with assisting actors actively involved in initial recovery assistance work in order to reduce any negative impact from the termination, and, where necessary, to ensure an adequate handover of responsibilities.

## **Division 2 – Coordination and Preparedness for International Disaster Assistance**

### **42 Coordination duties and powers of the focal point agency**

- (1) Despite section 38, once an offer for international disaster assistance has been accepted and assisting international actors have begun preparation for, or have arrived in Nauru, the Department of National Emergency Services will serve as the focal point agency between the Government of Nauru and assisting international actors, promoting the effective facilitation, coordination and oversight of international disaster assistance in accordance with this Division.
- (2) The Secretary for the Department of National Emergency Services must inform assisting actors and relevant national, and local governmental agencies of their rights and responsibilities under this Act and any other relevant laws.
- (3) During the international disaster relief and initial recovery periods, the Secretary as National Controller may request any relevant governmental body to undertake actions or make available assets or premises required to facilitate the work of assisting international actors to provide disaster relief or initial recovery assistance.
- (4) Any governmental agency requested under subsection (3) must comply with the fullest extent possible within their legal mandates.
- (5) Any request made under subsection (3) that may impose a substantial burden on the cooperating agency may be reviewed at its request by the Council.
- (6) During the international disaster relief and initial recovery periods, the Secretary may also request any private actor to undertake voluntary actions, at their own expense, as needed to facilitate the work of assisting international actors to provide disaster relief or initial recovery assistance.

- (7) A request made under subsection (6) may include a request to lower or waive fees or charges for key services required by assisting international actors or to extend operating hours for their provision.

#### **43 Operational coordination of assisting international actors**

- (1) National authorities must endeavour to integrate the role of assisting international actors into their contingency planning and mechanism for operational coordination for disaster relief and initial recovery assistance efforts and in particular, they must endeavour to facilitate the work of assisting international actors while balancing the urgent needs of the people affected by Disaster and necessary safeguards relating to public safety and health, coordination and oversight.
- (2) Assisting international actors must cooperate and coordinate with national authorities in their disaster relief and initial recovery assistance and in particular, they must provide them with such information as is available to them on the needs, and on the location, type and extent of their disaster relief and initial recovery assistance operations, as required for a coordinated and effective response.
- (3) With due consideration for the need to adequately coordinate and oversee their work, no official of Nauru must seek to prevent assisting international actors from acting according to the principles for humanitarian assistance as provided in Division 3 of this Part.
- (4) Assisting international actors must cooperate with any international or regional mechanisms for coordination that have been specifically approved for a particular operation by the Department of National Emergency Services.

#### **44 Limited exemption from privacy of personal data**

National authorities and assisting actors may be permitted to share personally-identifiable information concerning disaster-affected persons among themselves for the purpose of avoiding imminent death or physical harm to individuals, or grave and foreseeable harm to public health or safety, or for facilitating family reunification.

### **Division 3 – General Responsibilities of Assisting Actors**

#### **45 Principles of international disaster assistance**

- (1) Assisting actors must comply with the principles of humanity and impartiality in providing international disaster assistance and in particular they must establish their aid priorities on the basis of need alone and they must not:
  - (a) engage in any adverse distinctions, exclusions or preferences based on status, such as nationality, race, ethnicity, religious beliefs, class, gender, disability, age or political opinion;

- (b) seek to further a particular political or religious standpoint or interfere in internal matters irrelevant to the disaster response;
  - (c) seek to obtain commercial gain from their assistance;
  - (d) gather sensitive information of a political or economic nature that is irrelevant to international disaster relief or initial recovery assistance.
- (2) In addition, non-governmental organisations must comply with the principle of independence and in particular they must not act as instruments of the foreign policy of any government.

**46            Respect for the dignity of persons affected by Disaster**

Assisting actors providing international disaster assistance must respect the dignity of persons affected by a disaster and in particular, must consult with the beneficiaries of their assistance in the design, implementation, monitoring and evaluation of the disaster relief and initial recovery assistance they provide.

**47            Quality of goods and services**

- (1) Assisting actors must ensure that the goods and services they provide are appropriate to the needs and circumstances of persons affected by the disaster and in compliance with the requirements of this Act and all other applicable laws of Nauru.
- (2) Except as described in subsection (3), assisting actors must additionally make their best efforts, in light of all the circumstances, to ensure that the goods and services they provide conform to the Sphere Project Minimum Standards in Humanitarian Response, as amended from time to time.
- (3) If an assisting actor believes that the circumstances make it impractical or unwise for it to make any attempt to conform with a significant aspect of the Sphere Standards, it must inform the Secretary for National Emergency Services and seek approval for an exemption from the requirement of subsection (2).

**48            Unsolicited bilateral donations**

- (1) Unsolicited donations are strongly discouraged by Nauru and such donations will not benefit from any of the exemptions, waivers and expedited processes contained in this Act or any other law.
- (2) The Department of National Emergency Services will clearly communicate its position on Unsolicited Bilateral Donations in writing and ensure it is publically available.
- (3) All international assisting actors should actively encourage members of the public interested in contributing to international disaster relief

or initial recovery to make financial donations where possible or otherwise donate only those types of relief goods expressly requested by the affected State.

**49 Disposal of unusable goods, non-functioning equipment and other waste**

Assisting actors must ensure that any goods or equipment they import for the purpose of disaster relief or initial recovery assistance, which are or which become unusable, as well as any other waste products produced by them in the course of their disaster relief or initial recovery assistance operations, are destroyed, recycled or otherwise disposed of in a safe, environmentally sensitive and effective manner and in compliance with the laws of Nauru.

**Division 4 – Eligibility for Legal Facilities**

**50 Provision of legal facilities to eligible actors**

- (1) The legal facilities described in Division 5 of this Part are available only to eligible actors as described in this Division and are effective only during international disaster relief and initial recovery periods.
- (2) Unless otherwise stated in Division 5, the legal facilities are equally effective during both the international disaster relief and initial recovery periods.
- (3) All of the legal facilities described in Division 5 must be available to assisting international actors deemed eligible in accordance with section 51, or approved as eligible in accordance with section 52.
- (4) The legal facilities described in Division 5 will only be available to assisting domestic actors deemed eligible pursuant to section 51 or approved as eligible in accordance with section 52 with respect to international personnel, goods, equipment and transport they bring to Nauru from abroad to provide disaster relief or initial recovery assistance.

**51 Deemed eligibility for legal facilities for certain assisting actors**

- (1) Upon the commencement of an international disaster relief period in accordance with section 39, the following assisting international actors will be deemed eligible to receive the legal facilities described in Division 5 without a further application process:
  - (a) assisting States;
  - (b) relevant intergovernmental organisations, including the United Nations and regional organisations; and
  - (c) any other assisting actor that the Secretary deems eligible.

- (2) In order to facilitate access to the legal facilities, the Secretary must provide assisting international actors described in subsection (1) a certificate of eligibility, upon their request.

## **52 Application for eligibility for legal facilities by assisting actors**

- (1) With the exception of those deemed eligible in accordance with section 51, assisting actors seeking eligibility may apply under this section only if they are recognised as a legal person in a foreign country or under international law.
- (2) The eligibility of private businesses for legal facilities will be limited to assistance from which they make no profit or other commercial gain.
- (3) Applications for eligibility may be made in advance of any disaster, or after the onset of a disaster.
- (4) In the event that eligibility for legal facilities is granted in advance of a disaster, it will remain valid for 2 years, after which a new application is required.
- (5) The legal facilities will enter into legal effect only during an international disaster relief or initial recovery period.
- (6) All assisting actors seeking eligibility must submit:
  - (a) certified copies of documents evidencing their legal personality in a foreign jurisdiction or under international law, in the case of assisting international actors, or under the laws of Nauru, in the case of assisting domestic actors;
  - (b) the name and full contact details of the authorised representative of the organisation and the address of its headquarters, if any, in Nauru;
  - (c) documentation relating to their previous experience and current capacity in providing effective disaster relief or initial recovery assistance;
  - (d) an undertaking relating to their organisational commitment and practices concerning the responsibilities as set out in Division 5.

## **53 Eligibility determination and certificates**

- (1) The Secretary for National Emergency Services must respond to any application made in accordance with section 52 by:
  - (a) either approving it and issuing a certificate of eligibility for the relevant Division 5 legal facilities; or
  - (b) by giving notice that the application has not been approved.

- (2) For applications made:
  - (a) during the international disaster relief period, the Secretary must respond no later than 10 working days after receipt of all required documents;
  - (b) after the termination of an international disaster relief period but during an international initial recovery period, the Secretary must respond no later than 7 working days after receipt of all required documents.
- (3) Applications from assisting actors with significant experience will be accepted unless the documentation provided or external information raises doubt as to their capacities, in which case, additional opinions and information may be gathered prior to a determination being made.
- (4) Upon approval of an application made under section 52 or upon the request of an assisting actor deemed eligible pursuant to section 52, the Secretary may issue a certificate indicating that the assisting actor is eligible for the relevant Division 5 legal facilities.
- (5) In the case of a domestic assisting actor, the certificate must state that the eligibility extends to the legal facilities in Division 5.
- (6) A certificate issued in accordance with this section is valid for a period of 2 years from the date of issue and may be renewed through a new decision under section 50 or section 52.

#### **54 Termination of eligibility for legal facilities**

Eligibility of assisting actors for the relevant Division 5 legal facilities may be terminated upon the request of the eligible actor concerned or upon the termination of the legal facilities for failure to comply with this Act.

### **Division 5 – Legal Facilities for Eligible Actors**

#### ***Sub-division 1 – International Personnel***

#### **55 Entry into Nauru and visa requirements**

- (1) The *Immigration Act 2014* which deals with entry and visa requirements for Nauru applies to all international personnel of eligible actors seeking admission into Nauru for the purpose of providing assistance under this legislation.
- (2) International personnel who enter Nauru under this disaster personnel visa waiver, will be allowed to undertake disaster relief and initial recovery work for their sponsoring entities in accordance with any visa conditions.



- (3) A visa granted to international personnel entitles the holder to remain in Nauru throughout the international disaster relief and international initial recovery periods or upon the expiry of the visa, whichever is the later.

## **56 Registration of medical and health professionals**

- (1) The *Health Practitioners Act 1999* applies to all medical and health professionals being deployed to Nauru by eligible assisting actors.
- (2) Prior to deployment to Nauru, eligible assisting actors must certify the validity of the foreign qualifications of all medical and health professionals and submit this certification and all relevant documents to the Health Practitioners Registration Board established in accordance with section 4 of the *Health Practitioners Act 1999*.
- (3) Registration under the *Health Practitioners Act 1999* remains valid until the end of the international initial recovery period, unless sooner revoked.

## **57 Recognition of other foreign professional qualifications**

- (1) This section applies to other non-medical and health foreign professional qualifications not provided for in section 56.
- (2) Eligible assisting actors wishing to deploy international personnel for tasks requiring legal recognition of their foreign professional qualifications must certify the validity of those qualifications and the competence of their personnel for the tasks envisaged.
- (3) Within 1 year of the commencement of this Act, the Department of National Emergency Services must establish a list of countries and educational institutions whose professionals may be given automatic recognition of their foreign qualifications when certified by an eligible actor in accordance with subsection (1).
- (4) The list prepared under subsection (3) must be reviewed at least once a year and published by Notice in the Government Gazette.
- (5) Recognition of qualifications under this section will exempt international personnel of eligible actors from any obligations for compulsory membership of professional associations or other professional registration processes within Nauru until the end of the international initial recovery period.

## **58 Foreign driving licence**

The provisions of the *Motor Traffic Act 2014* relating to the issuance of Nauruan driving licences or recognition of foreign licences apply to all international personnel of eligible actors.

**59 Access during International Initial Recovery Period**

- (1) The international personnel of eligible actors may access areas that have been approved for access by the Department of National Emergency Services and may provide their goods and services directly to affected persons.
- (2) Access granted under subsection (1) is subject only to limitations based on national security, public order or public health.

***Sub-division 2 – Entry of International Disaster Goods and Equipment***

**60 Customs facilitation**

The *Customs Act 2014*, including its rules and regulations, apply to the importation of consignments of goods and equipment brought into Nauru by eligible actors including issues related to:

- (a) exemption from customs duties and taxes;
- (b) exemption from fees for work conducted outside of designated
- (c) waiver of economic prohibitions and restrictions for categories of special goods and equipment;
- (d) simplification of documentation requirements; and
- (e) inspection and customs security.

**61 Duty of compliance by eligible actors**

In order to benefit from the legal facilities in this sub-division, eligible actors must:

- (a) declare that all goods and equipment they seek to import under this sub-division are exclusively for disaster relief or initial recovery assistance and that they comply with any relevant standards under Nauruan law; and
- (b) pack, classify and mark their consignments in accordance with the requirements described in this sub-division as directed by the Nauru Customs Office.

**62 Representation to Nauru Customs Office**

Eligible actors may make representations to the Department of National Emergency Services who will then direct such representation to the Nauru Customs Office with respect to their international disaster assistance consignments or through a designated third party acting on their behalf.

### ***Sub-division 3 – Entry and Use Restrictions for Specific International Disaster Goods and Equipment***

#### **63 Medication**

- (1) Any medication imported into Nauru for the purpose of disaster relief or initial recovery assistance must conform to all applicable Nauruan laws.
- (2) Medication imported must be appropriate to the needs of the disaster-affected persons and must be legal for use in the country of origin as well as in Nauru.
- (3) Medication imported for the purpose of this Act, must be distinguished between:
  - (a) medication intended to be donated for the use of others; and
  - (b) medication that eligible actors intend to use directly in providing medical services.
- (4) Eligible actors must ensure that medication intended to be used directly in providing medical services in disaster relief or initial recovery assistance, must be:
  - (a) transported and maintained by the eligible actor in appropriate conditions at all times to ensure their quality; and
  - (b) guarded against misappropriation and abuse.
- (5) Medication intended for donation for the use of others must be:
  - (a) at least 24 months from their expiry date upon arrival, unless otherwise specifically agreed to by the Secretary for Health and Medical Services;
  - (b) transported and maintained by the eligible actor in appropriate conditions to ensure their quality until they reach their intended domestic recipients; and
  - (c) appropriately labelled in English with the international non-proprietary name or generic name, batch number, dosage form, strength, name of manufacturer, quantity in the container, storage conditions and expiry date.

#### **64 Importation of food**

Subject to the *Customs Act 2014*, *Agricultural Quarantine Act 1999*, *Quarantine Act 1908*, *Food Safety Act 2005* and all other applicable laws, any food imported into Nauru by eligible actors must:

- (a) not expire within 6 months of importation;

(b) be labelled in the English language.

**65 Vehicles**

Subject to the *Motor Traffic Act 2014*, the *Customs Act 2014* and the *Customs Tariff Act 2014*, motor vehicles may be imported into Nauru for the purpose of this Act.

***Sub-division 4 – Permitted Disposition of Equipment and Unused Goods***

**66 Disposition of equipment and unused goods**

(1) This sub-division sets out the permitted disposition of goods and equipment for which eligible actors have received waivers or exemptions from fees, duties, taxes or other charges in accordance with this Part and which remain in their possession as of the end of their disaster relief and initial recovery operations.

(2) Such goods and equipment may be:

- (a) retained by eligible actors that are non-profit entities and used or distributed by them for humanitarian, development or charitable purposes in Nauru;
- (b) re-exported in accordance with section 67;
- (c) donated in accordance with section 68; or
- (d) disposed of in accordance with section 49.

(3) Additionally, such goods and equipment may be sold, but only:

- (a) after the termination of the initial recovery period; and
- (b) if any fees, duties, taxes or charges were previously waived under any other legislation, the payment of these with regard to the items now being sold.

**67 Re-export of Goods and Equipment**

Subject to the *Customs Act 2014*, eligible actors that imported goods or equipment benefitting from the legal facilities under this Act are permitted to re-export any unused goods or equipment.

**68 Donation of unused Goods and Equipment**

When no longer needed for their disaster relief or initial recovery assistance, eligible actors are permitted to donate any imported or locally purchased goods and equipment provided that:

- (a) all applicable laws are complied with;

- (b) the donation is made no later than 2 months after the termination of the international initial recovery period;
- (c) the eligible assisting international actor provides documentation to Cabinet with copies to the beneficiary of the identity of the importer or the purchaser, the date of import or purchase and the fact that the item or group of items was imported or purchased pursuant to the legal facilities in this Act;
- (d) the beneficiary of the donation is a non-governmental organisation registered in Nauru or other beneficiaries approved by Cabinet; and
- (e) any items donated may not be sold for a period of 3 years unless fees, duties, taxes or charges that may have been waived under the applicable Act, are paid.

### ***Sub-division 5 – Transport***

#### **69 Entry of transport operators**

The *Immigration Act 2014* applies to any procedures on the entry of drivers, pilots and crew of transport vehicles operated by or on behalf of eligible actors.

#### **70 Notice of transport**

To facilitate the provision of the legal facilities in this Part, eligible assisting actors or their carriers must:

- (a) inform the Director of Civil Aviation in advance of the intended route of flights, type and call signs of the aircraft, number, number of crew members, the character of the cargo, time-table of flights, and the list of all passengers and must comply with any directions from the Director of Civil Aviation as to air traffic control and landing procedures; and
- (b) inform the Harbour Master in advance, of the intended port or location of arrival of each water vessel, the type, make and registration number of each vessel, the number of personnel operating and on board each vessel, and the equipment, facilities and other materials on board each vessel, and must comply with any directions given by the Harbour Master as to the control of incoming vessels or docking procedures.

### ***Sub-division 6 – Legal Capacity, Employment and Taxes***

#### **71 Legal capacity of assisting international actors**

The status of eligibility for legal facilities of an assisting international actor includes such legal capacity as may be relevant for the exercise of its purpose in providing international disaster relief or initial recovery

assistance in accordance with the laws of Nauru during the international disaster relief and initial recovery periods, in particular the capacity to:

- (a) open bank accounts;
- (b) enter into contracts and leases;
- (c) acquire and dispose of immovable and movable property;
- (d) receive and disburse private and public funds;
- (e) instigate legal proceedings;
- (f) engage and terminate locally engaged personnel, as set out in section 72.

## **72 Engagement and termination of locally engaged personnel**

- (1) Subject to section 35, and except as provided by this section, all eligible assisting international actors must comply with the applicable laws of Nauru with regard to the employment of locally engaged personnel, being persons normally resident or domiciled in Nauru.
- (2) Eligible assisting international actors must not be required to make any separate registration as employers, including for the purposes of taxation requirements relating to the employment of locally engaged personnel.
- (3) Notwithstanding any provisions of labour and employment laws to the contrary, eligible assisting international Actors may:
  - (a) recruit any individual legally entitled to perform the work envisaged in Nauru through a non-discriminatory process;
  - (b) engage local personnel pursuant to fixed term contracts, which may be of short duration, and may be renewed as required without creating an open-ended obligation.

## **73 Jurisdiction over international personnel**

Despite any public order or provisions of labour and employment laws to the contrary, the courts or administrative tribunals of Nauru may not seek to exercise jurisdiction concerning contracts between eligible assisting international actors and international personnel engaged by them, where such contracts contain choice of law provisions that establish the exclusive jurisdiction of a foreign or international court, tribunal or other mechanism.

## **74 Taxation of eligible assisting international actors**

- (1) The supply of disaster relief and initial recovery assistance by an eligible assisting international actor is exempt from all service taxes and similar taxes, duties and levies and governmental fees where such supply takes place during the international disaster relief or initial recovery periods.
- (2) In providing the legal facility, the Department of Finance must take all practical steps to ensure that local suppliers suffer no negative financial or administrative impact in providing goods or services to eligible assisting international actors.
- (3) The activities of an eligible assisting international actor carried on for the purpose of providing disaster relief or initial recovery assistance may be disregarded for tax purposes during the international disaster relief and initial recovery periods and, accordingly, any actual or deemed income or gain arising from such activities may not be subject to any taxes, duties, levies or governmental fees having similar effect.
- (4) The activities of the international personnel of eligible assisting international actors carried on in connection with the provision of disaster relief or initial recovery assistance may be disregarded for tax purposes during the international disaster relief and initial recovery periods and, accordingly, taxes, duties, levies or other governmental fees having similar effect may not be payable in respect of such activities.
- (5) The international personnel of an eligible assisting international actor must not be treated as resident in Nauru or as having any other connection with Nauru relevant for taxation purposes by reason of their presence in Nauru or activities undertaken during the international disaster relief and initial recovery periods.

## **75 Currency and banking**

The Nauru Revenue Office must facilitate the entry of funds and currencies by eligible assisting international actors to provide disaster relief and initial recovery assistance.

### **Division 6 – Supervision, Reporting and Sanctions**

## **76 Supervision of Assisting Actors**

- (1) The Council is responsible for monitoring the compliance of assisting actors with their responsibilities under this Act.
- (2) To facilitate the Council's oversight, assisting actors are required to report to the Council, at reasonable intervals, about the disaster relief and initial recovery assistance they provide and such reports

will be made available to the public by the Council through electronic means.

- (3) Any reporting requirements imposed by the Council under this section must be designed so as to reduce any administrative burden on assisting actors.

## **77 Non-compliance by assisting actors**

- (1) If, on the basis of credible information, the Council reasonably believes that any assisting actor has failed to materially comply with its responsibilities under this Act, and in particular its responsibilities under Division 3 of this Part, it must immediately consult with the assisting actor and seek clarification or explanation and if still unsatisfied, the Council must provide written notice of non-compliance along with a decision either:
  - (a) to require the assisting actor to bring itself into compliance within a specified period of time, with or without temporary suspension of its eligibility, if any, for legal facilities under Division 5 of this Part;
  - (b) to revoke the assisting actor's eligibility, if any, or legal facilities under Division 5 of this Part;
  - (c) in the case of deliberate misrepresentation or fraud, to impose fines to be set out by implementing regulations; or
  - (d) in the most extreme cases concerning an assisting international actor, to revoke Nauru's consent for it to provide disaster relief or initial recovery assistance in response to the disaster.
- (2) In the event of a decision to revoke pursuant to subsection (1) (d), if the assisting international actor lacks a legal basis independent of this Act to remain in Nauru, it may be required to depart no later than 20 days from the date of the notice.
- (3) Decisions to suspend or revoke legal facilities pursuant to subsections (1) (a) or (1) (b) may not be given retroactive effect, except in cases of fraud or criminal misconduct attributable to the assisting international actor.
- (4) A decision of the Council under this Division is final and may not be appealed to any tribunal or court.
- (5) Nothing in this section precludes the prosecution of assisting international actors or their international and locally engaged personnel for criminal offences or for the imposition of civil liability under the laws of Nauru.



**78 Transparency as to internationally donated funds**

- (1) Internationally donated funds received by the Government of Nauru for the purposes of disaster relief and initial recovery assistance is subject to audit by the Auditor General no later than 6 months after the termination of the international disaster relief period or 3 months after the termination of the international initial recovery period and the results of which must be made publicly available through electronic means.
- (2) Internationally donated funds received by assisting domestic actors must be:
  - (a) maintained in a dedicated bank account for disaster relief or initial recovery assistance; and
  - (b) subjected to an external audit no later than 6 months after the termination of the international disaster relief period or three months after the termination of the international initial recovery period, whichever is the sooner and the results of the audit must be reported to the Auditor General and be made publicly available through electronic means.

**Division 7 – Transit of International Disaster Assistance**

**79 Facilitation for transit**

In the event of a disaster occurring in another country for which international disaster assistance is required, the Government of Nauru may work with assisting international actors for the immediate transit or transshipment of personnel, goods or equipment across or through Nauru.

**80 Applicable laws**

The laws of Nauru will apply to the transit or transshipment of personnel, goods or equipment.

**PART 8 – OFFENCES**

**81 Failure to obey lawful direction**

- (1) A person who has been given a lawful direction by an authorised officer and fails to comply commits an offence and is liable upon conviction to a fine not exceeding \$500.
- (2) The onus is on the person failing to comply to prove that they had a reasonable excuse for not complying.

**82           Hindering, obstructing or interfering with emergency activity**

A person who obstructs, hinders, or in any way interferes with a person engaged in an emergency activity commits an offence and is liable upon conviction to a fine not exceeding \$500.

**83           Impersonating authorised officer**

A person who impersonates an authorised officer commits an offence and is liable upon conviction to a fine not exceeding \$2,000.

**PART 9 - MISCELLANEOUS**

**84           Protection from liability**

- (1) No civil liability action may be brought against the Government, the National Controller, or any authorised officers, or persons engaged in emergency activity because of anything done or omitted to be done under this Act in good faith without reckless disregard for the possible occurrence of the personal injury or loss or damage to property from which liability would arise, if this section did not apply.
- (2) No person may be personally liable for any emergency activity done negligently or otherwise performed in accordance with this Act provided he or she was acting in good faith.

**85           Compensation for injury**

Any person who sustains personal injury whilst engaged in an emergency activity under this Act, may seek compensation in accordance with the Regulations.

**86           Regulations**

- (1) Cabinet may make regulations prescribing all matters necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular prescribing matters for and in relation to:
  - (a) the amount to be paid to contractors engaged to perform Recovery or other necessary works under this Act;
  - (b) the amount of compensation to be paid for personal injury and the procedures for claiming such compensation under section 85;
  - (c) the training provided to and exercises to be undertaken by members and officers of Agencies for which a role is defined or a responsibility is confirmed by the Disaster Management Plan;
  - (d) prescribing fees for training courses conducted by the Secretary for the Department of National Emergency Services or his or her delegate;

- (e) prescribing conditions of issue or use of property loaned by a Government Agency to volunteers or any third party for the purpose of disaster management, response or recovery;
- (f) declaring a service additional to the services listed in section 3 to be an essential service for the purpose of this Act;
- (g) prescribing necessary powers, functions, duties or authority with regard to the provision of assistance by international assisting actors;
- (h) the form of any notice or declaration required under this Act.

**87           Emergency powers not affected**

Nothing in this Act affects the power of the President to declare a State of Emergency in accordance with Part IX of the Constitution of Nauru.

**88           Severability of Act**

The sections of this Act are severable and if any section of this Act is or becomes illegal, invalid or unenforceable in any respect, that will not affect or impair the legality, validity or enforceability of this Act.

**89           Repeal of Act**

The *National Disaster Risk Management Act 2008* is repealed by the provisions of this Act.

**90           Savings and transitional provisions**

- (1) Despite the repeal of the *National Disaster Risk Management Act 2008*, all appointments and decisions made under the Act remains in force.
- (2) All cabinet decisions relating to the Department of National Emergency Services continues to have effect.