



[L.S.]

I Assent.

James B. Carlisle,
Governor-General.

10th September, 2002

ANTIGUA AND BARBUDA

No. 13 of 2002

AN ACT to provide for the effective organisation of the preparedness, management, mitigation of, response to and recovery from emergencies and disasters natural and man-made in Antigua and Barbuda.

[3rd October, 2002]

ENACTED by the Parliament of Antigua and Barbuda as follows —

PART I

PRELIMINARY

1. (1) This Act may be cited as the Disaster Management Act 2002. Short title and Commencement.

(2) This Act comes into force on such date as the Minister may by Notice published in the *Gazette* appoint.

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

"Act" includes Regulations made under the Act;

"Director" means the person appointed as Director of Disaster Preparedness and Response under section 3;

"disaster emergency" means a public emergency declared under section 20 of the Constitution or a state of emergency declared under section 2 of The Emergency Powers (Hurricane, Earthquake, Fire or Flood) Act, Cap. 148 on account of the threat or occurrence of a disaster;

"hazard inspector" means the person appointed or designated as a hazard inspector under section 3;

"listed premises" means premises listed in the shelters list;

"National Advisory Committee" means the National Disaster Preparedness and Response Advisory Committee established under section 6;

"National Emergency Operations Centres" means the National Emergency Operation Centres and any other supplementary operation or facilities established and maintained under section 9;

"Policy Review" means the Disaster Preparedness and Response Policy Review prepared under section 7 (1);

"shelter manager" means the person appointed or designated as a shelter manager under section 3;

"shelter officer" means the person appointed or designated as a shelter officer under section 3;

"shelters list" means the list of premises established and maintained under section 10;

"special area precautionary plan" means a special area precautionary plan prepared under section 16 (1);

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

"statutory body" means an entity which has been established by or under any Act and which is directed or governed by either a public officer or an officer appointed by a Minister or public officer or a statutory Board or an officer appointed by the Minister or the Cabinet.

PART II

DIRECTOR OF DISASTER PREPAREDNESS AND RESPONSE

3. (1) There shall be a Director of Disaster Preparedness and Response, who shall be a public officer.

Director of
Disaster Prepared-
ness and
Response.

(2) The Director may be assisted by such number of public officers or other persons as may be appointed or designated for the purpose, including public officers appointed or designated to discharge the functions of hazard inspectors, shelter managers or officers under this Act.

(3) The Director, any deputy or assistant director, any police officer or any member of Antigua and Barbuda Defence Force, shall have all the enforcement powers of a hazard inspector, shelter manager or shelter officer under sections 30 and 35 (3) (b).

4. (1) The Director shall, subject to section 5, be responsible to the Prime Minister for co-ordinating the general policy of the Government of Antigua and Barbuda relating to the mitigation of, preparedness for, response to and recovery from emergencies and disasters in Antigua and Barbuda.

Functions of the
Director.

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

- (a) review and appraise the various programmes and activities of the Government in the light of the policy of this Act for the purpose of determining the extent to which the programmes and activities are contributing to the achievement of the policy, and to make recommendations to the Prime Minister with respect thereto;

- (b) develop and recommend to the Prime Minister national policies to foster and promote the mitigation of, preparedness for, response to and recovery from emergencies and disasters in Antigua and Barbuda;
- (c) co-operate with non-governmental organizations and other private sector entities to develop and draw up a comprehensive plan for response to and recovery from emergencies and disasters in Antigua and Barbuda;
- (d) gather timely and authoritative information concerning the conditions and trends in the quality of the environment, both current and prospective, as these relate to the likelihood of disasters in Antigua and Barbuda;
- (e) analyse and interpret the information gathered under paragraph (c) for the purpose of determining whether such conditions and trends are interfering, or are likely to interfere, with the achievement of the policy of this Act;
- (f) conduct investigations, studies, surveys, research and analyses relating to ecological systems and environmental quality and document and define changes in the natural environment as these relate to the likelihood of disasters in Antigua and Barbuda;
- (g) prepare and review hazard risk assessment maps of Antigua and Barbuda;
- (h) conduct programmes of public information and education on the mitigation of, preparedness for, response to and recovery from emergencies and disasters;
- (i) liaise with persons and organisations within and without Antigua and Barbuda for the purpose of exchanging information and facilitating the harmonisation of the policies of those persons and organisations with the policies of the Government of Antigua and Barbuda relating to the prevention and mitigation of, preparedness for, response to and re-

covery from emergencies and disasters in Antigua and Barbuda;

- (j) provide technical advice on draft regulations, whether under this Act or any other legislation, relating to the mitigation of, preparedness for, response to and recovery from emergencies and disasters in Antigua and Barbuda.

5. The Director shall be subject to such directions of a special or general character given by the Prime Minister in relation to the policy to be followed in the exercise of the powers conferred and the duties imposed on him by or under this Act as the Prime Minister gives on any matter that affects the public interests of Antigua and Barbuda, and the Director shall give effect to all such directions.

Ministerial
directions to
Director.

PART III

NATIONAL DISASTER PREPAREDNESS AND RESPONSE ADVISORY COMMITTEE, POLICY REVIEW AND PLAN

6. (1) There is established a National Disaster Preparedness and Response Advisory Committee comprising —

National Disaster
Preparedness and
Response
Advisory
Committee.

- (a) the Prime Minister as Chairperson;
- (b) the Minister responsible for public safety;
- (c) a Minister or public officer nominated by the Prime Minister to serve as Chairperson in the absence of the Prime Minister from any meeting;
- (d) such other members as may be nominated by the Prime Minister to represent —
- (i) the Police Force;
 - (ii) the Antigua and Barbuda Defence Force;
 - (iii) the Fire Service;

- (iv) Meteorological department;
- (v) The Antigua Public Utilities Authority;
- (vi) the Ministry responsible for Public Health;
- (vii) the Ministry responsible for the Public Safety;
- (viii) the Ministry responsible for the Environment;
- (ix) the Ministry responsible for Public Works;
- (x) the Ministry responsible for Local Government;
- (xi) such other Ministries, Departments of Government and statutory bodies as the Prime Minister thinks fit; and
- (xii) such other persons or organisations, including non-governmental organisations, as the Prime Minister thinks fit who volunteer or are required by law to perform functions related to the mitigation of, preparedness for, response to and recovery from emergencies and disasters in Antigua and Barbuda.

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

(3) The Director of Disaster Preparedness and Response shall be the Secretary of the National Advisory Committee.

(4) The Director shall in consultation with the National Advisory Committee establish other committees and sub-committees charged with particular responsibilities, whether defined by geographical area or otherwise, in relation to the response to emergencies and disasters in Antigua and Barbuda, which other com-

mittees and sub-committees shall be available to be convened whenever a threatened disaster alert arises or a disaster strikes.

(5) The National Advisory Committee and any other Committee under subsection (4) may, subject to Rules under section 35 (1) (a) and to this Act, determine its own procedure.

7. (1) The Director shall, within three months after the end of every calendar year, prepare for the approval of the Prime Minister, a Disaster Preparedness and Response Policy Review related to the mitigation of, preparedness for, response to and recovery from emergencies and disasters in Antigua and Barbuda.

The Disaster
Preparedness and
Response Policy
Review

(2) The Director shall consult the National Advisory Committee in the preparation of the Policy Review.

(5) The Policy Review approved by the Prime Minister shall be published in the *Gazette* by the Director not later than 31st May of each year.

8. (1) The Director shall prepare annually for the approval of the Prime Minister, the National Disaster Response Plan, comprising the statement of the contingency arrangements under the co-ordination of the Director for responding to the threat or event and aftermath of a disaster in Antigua and Barbuda whether or not the threat or the disaster is such as to prompt the declaration of a disaster emergency.

The National
Disaster Prepared-
ness Response
Plan.

(2) The National Disaster Preparedness Response Plan shall include —

- (a) procedures related to disaster preparedness and response of public officers, Ministries and Departments of Government, statutory bodies, local government authorities, and persons or organisations who volunteer or are required by law to perform functions related to mitigation of, preparedness for, response to and recovery from emergencies and disasters in Antigua and Barbuda;
- (b) procedures for co-ordinating the national disaster response plan and its implementation with the preparation and implementation of disaster response plans of persons and bodies under paragraph (a);

- (c) procedures for informing persons under paragraph (a) and the public in Antigua and Barbuda and elsewhere of the existence of a threatened disaster alert under section 27 or the existence of a disaster emergency;
- (d) procedures for preparing and maintaining inventories of services, systems and supplies for the mitigation of, preparedness for, response to and recovery from emergencies and disasters during a threatened disaster alert under section 27 or the existence of a disaster emergency;
- (e) procedures for mobilising services and systems for the mitigation of, preparedness for, response to and recovery from emergencies and disasters during a threatened disaster alert under section 27 or the existence of a disaster emergency, including procedures for the manning of Emergency Operations Centres and for the protection of the family and property of persons required for the purpose of manning such centres or required otherwise to perform other duties of protecting the public;
- (f) procedures for the protection and restoration of communications, both nationally and internationally, during a threatened disaster alert under section 27 or in the event or the aftermath of a disaster emergency;
- (g) procedures for informing persons under paragraph (a) and the public in Antigua and Barbuda and elsewhere of the state of affairs during a threatened disaster alert under section 27 or in the event or the aftermath of a disaster emergency;
- (h) procedures for the release, distribution and replenishment of emergency stores of supplies of food, water, clothing and medical supplies during a threatened disaster alert under section 27 or in the event or the aftermath of a disaster emergency;
- (i) procedures for safeguard against fire and epidemics during threatened disaster alert under section 27 or in the event or the aftermath of a disaster emergency;

- (j) procedures for the provision of shelter for persons during a threatened disaster alert under section 27 or in the event or the aftermath of a disaster emergency;
- (k) procedures for co-operation with international organisations and governments of countries outside Antigua and Barbuda during a threatened disaster alert under section 27 or in the event or the aftermath of a disaster emergency;
- (l) procedures for accepting and facilitating the distribution of volunteer services and relief supplies during a threatened disaster alert under section 27 or in the event or the aftermath of a disaster emergency;
- (m) procedures to apply in the event that the evacuation of all the residents of any area is considered to be desirable in the event of a disaster emergency;
- (n) procedures to apply in the event that the requisitioning of private property is considered to be desirable in the event of a disaster emergency, including procedures for assessing and paying compensation; and
- (o) procedures for protecting life and property from the dangers of looting and riotous behaviour in the event or the aftermath of a disaster emergency.

(3) The Director shall consult the Advisory Committee in the preparation of the National Disaster Preparedness Response Plan.

PART IV

EMERGENCY OPERATIONS CENTRES AND SHELTERS

9. The Director shall be responsible for the establishment and maintenance of a National Emergency Operations Centre to function as the headquarters of the activities undertaken in response to a disaster emergency, and may establish and maintain supplementary Emergency Operations Centres or facilitate the establishment and maintenance of such supplementary Emergency Operations Centres, whether distributed according to geographical location or otherwise, by persons or bodies under section 8 (2) (a).

Emergency
Operations
Centres.

Shelters.

10. (1) The Director shall establish and maintain a list of premises available for and suitable for use as shelters during a threatened disaster alert under section 27 or in the event or the aftermath of a disaster emergency.

(2) The Director shall in the list of premises established and maintained under subsection (1) —

- (a) distinguish between premises in Crown occupation and other premises;
- (b) specify the facilities available at each premises;
- (c) indicate the suitability of each premises for use during a threatened disaster alert under section 27 or in the event or the aftermath of a disaster emergency; and
- (d) indicate the periods for which each premises would be suitable for use during a threatened disaster alert declared by the Governor-General or the aftermath of a disaster emergency.

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

(4) Where a listed premises is not in Crown occupation, the designation of a shelter manager or shelter officer for such premises shall be subject to agreement between the occupier of the premises and the Director.

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

(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.

PART V

OBLIGATIONS OF OTHER PUBLIC OFFICERS

11. Every Permanent Secretary and Head of a Department of Government shall ensure that there is at all times a public officer of his Ministry or Department designated as the liaison officer for communication with the Director in relation to the procedures of the Ministry or Department under section 8 (2) (a). Liaison officers.

12. Every Permanent Secretary and Head of a Department of Government shall supply annually to the Director in such form and by such date as may be required by the Prime Minister such information as may be requested by the Director for the purposes of sections 4 (2) (a) and 8 (2). Annual report to Director.

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

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

- (a) during a disaster emergency, where the person exercising the powers under subsection (1) considers that the urgency of the matter or difficulties of logistics makes such consultation impracticable; or
- (b) in respect of the exercise of any power in relation to which a waiver by the Director of his right to be consulted is in effect under subsection (3).

(3) The Director may, with the approval of the Prime Minister, waive his right to be consulted, and any such waiver shall take effect when the Prime Minister shall have notified that waiver by Order published in the *Gazette*.

(4) 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.

Environmental impact assessments.

14. Any power under any law to require an environmental impact assessment is, whether such power is expressed or implied, a disaster preparedness and response related power for the purposes of section 13 (1).

PART VI

SPECIALLY VULNERABLE AREAS

Delimitation of specially vulnerable areas.

15. (1) The Prime Minister may, on the recommendation of the Director, designate specially vulnerable areas for the purposes of the mitigation of, preparedness for, response to and recovery from emergencies and disasters by delimiting such areas under this section.

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

First Schedule.

(3) Before approving the draft Order delimiting a specially vulnerable area, the Prime Minister may arrange for a public consultation to be held in conformity with the provisions of the First Schedule, at which the Director shall present the draft Order for discussion and comment.

(4) The Prime Minister may combine a public consultation under this section with a public consultation under section 18 (1).

(5) After any public consultation has been held, the Prime Minister may, if he decides to accept the Director's recommendation for the designation of the area, consider what revisions ought to be made of the draft Order and shall settle the delimitation of the specially vulnerable area by making the Order and publishing it in the *Gazette*.

Special area precautionary plans for specially vulnerable areas.

16. (1) The Director may prepare for the Prime Minister's approval a draft special area precautionary plan for a specially vulnerable area under section 15 (1).

(2) A special area precautionary plan may include —

- (a) strategies, policies and standards for development and for maintenance of structures in the specially vulnerable area or any proposed such area;
- (b) standards for environmental impact assessment for contemplated development in the specially vulnerable area; and
- (c) provisions designating any part of the specially vulnerable area as a prohibited area for navigation or for the purpose of removing vegetation, sand, stones, shingle or gravel.

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

17. (1) The Director shall by notice in the *Gazette* and at least one newspaper published in Antigua and Barbuda invite submissions from the public relating to the contents of a draft special area precautionary plan. **Draft special area precautionary plan.**

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

(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.

18. (1) When the draft special area precautionary plan is presented to the Prime Minister for approval, the Prime Minister may, unless he considers that the objectives of the draft plan have already been met under the provisions of other legislation, arrange for a public consultation to be held in conformity with the provisions of the First Schedule, at which the Director shall present the draft plan for discussion and comment. **Public consultation on draft special area precautionary plan. First Schedule.**

(2) The Prime Minister may combine a public consultation under this section with a public consultation under section 15 (3).

Revision of draft special area precautionary plan.

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

Approval of referral draft special area precautionary plan.

20. The Prime Minister may —

- (a) approve the resubmitted draft special area precautionary plan by Order subject to affirmative resolution; or
- (b) refer the draft plan to the Director for such changes as the Prime Minister may require, in which event the Director shall make the changes as required and resubmit the draft plan to the Prime Minister.

Special area precautionary plan.

21. (1) The draft special area precautionary plan approved under section 20 (1) (a) shall when published in the *Gazette* become the special area precautionary plan for the specially vulnerable area until a new amended special area precautionary plan is approved under this Act.

(2) A special area precautionary plan does not authorise any development which would not be permitted under the Physical Planning Act or any other Act in force in Antigua and Barbuda.

Authorities to have regard to special area precautionary plan.

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

Amendment of Order delimiting the specially vulnerable area.

23. (1) The Director may with the approval of the Prime Minister at any time prepare draft proposals for amending the Order delimiting the specially vulnerable area.

(2) The amendment of the Order delimiting the specially vulnerable area in accordance with such draft proposals shall comply with section 15.

24. (1) The Director may at any time prepare and propose for the approval of the Prime Minister draft amendments of the special area precautionary plan for the specially vulnerable area.

Amendment of special area precautionary plan.

(2) The amendment of the special area precautionary plan proposal in accordance with subsection (1) shall comply with sections 17 to 20, and the amended plan shall when approved under section 20 (1) (a) be published in the *Gazette* and constitute the special area precautionary plan under section 21 (1).

25. The Prime Minister may, at any stage in the process of designation of a specifically vulnerable area under section 15 or section 23 or of the preparation of a draft plan under sections 16 to 20 or section 24, discontinue the process if he considers that the objectives of the draft plan have already been met under the provisions of other law.

Discontinuance of area designation or plan preparation.

26. (1) Any person aggrieved by a special area precautionary plan for a specially vulnerable area, who desires to question the validity thereof or of any provision contained therein on the grounds that it is not within the powers of this Act or that any requirement of this Act or of any Regulations has not been complied with in relation to the approval or preparation of the plan, may, within six weeks from the date on which the notice is published in the *Gazette* under section 21 (1), make an application for judicial review to the High Court under this section in accordance with any Rules of Court for the time being in force.

Judicial Review

(2) On any application under this section, the High Court, if satisfied that the plan, or any powers contained therein, is not within the powers of this Act or that the interests of the applicant have been substantially prejudiced by a failure to comply with any requirement of this Act, may quash the special area precautionary plan or any provision contained therein, either generally or in so far as it affects any property of the applicant.

(3) Where the whole special area precautionary plan is quashed under subsection (2), the Director shall prepare a new draft special area precautionary plan to which sections 17 to 20 shall apply as they apply to a draft plan under section 16 (1).

(4) Where a provision of the special area precautionary plan is quashed under subsection (2), but the whole plan is not quashed, the plan without the quashed provision shall be deemed to be an

approved amended special area precautionary plan under section 20(1)(a).

PART VII

THREATENED DISASTER ALERTS

Threatened disaster alerts.

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

- (a) the Governor-General declares by Proclamation and on the advice of the Prime Minister, after the Prime Minister has consulted or has been advised by the Director under subsection (2), that there is a substantial prospect that a disaster of a kind in Column 1 of the Second Schedule will strike within the applicable period in column 2 of that Schedule; or
- (b) an agency, whether within Antigua and Barbuda or otherwise, certified by the Director as an Accredited Disaster Notification Service under subsection (3), broadcasts or otherwise publishes a formal announcement warning persons in Antigua and Barbuda of the threat of the striking of a disaster of a kind in Column I of the Second Schedule within the applicable period in Column 2 of that Schedule:

Provided that the Governor-General may by declaration on the same advice and after the same consultation as is provided in subsection (1)(a) declare that notwithstanding such an announcement Antigua and Barbuda is not in a state of threatened disaster alert.

(2) The Director shall recommend to the Prime Minister on request, and at any time he considers appropriate, when there is a substantial prospect that a disaster of a kind in Column 1 of the First Schedule will strike within the applicable period in Column 2 of that Schedule.

(3) The Director may certify any agency, whether within Antigua and Barbuda or otherwise, which he considers to have a high level of technical expertise in the prediction or assessment of risk of any kind of disaster, as an Accredited Disaster Notification Service for the purposes of this Act.

(4) A certification under subsection (3) may be general or limited to specified kinds of disaster.

(5) If the Prime Minister prescribes by Regulation that different periods shall apply in relation to threatened disaster alerts than those prescribed in the Second Schedule, that Schedule shall to the extent of the inconsistency cease to have effect under this section.

PART VIII

APPLICATION OF TREATIES

28. The Caribbean Disaster Emergency Response Agency Agreement set out in the Third Schedule shall have the force of law in Antigua and Barbuda.

Caribbean Disaster
Emergency
Response Agency
Agreement.

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

Application of
treaties in time of
disaster emer-
gency'

PART IX

MISCELLANEOUS

30. (1) Where a magistrate is satisfied, on evidence on oath by a hazard inspector, that the condition of any premises is reasonably suspected of posing a danger of serious injury to persons outside of the premises in the event of a disaster, the magistrate may issue or renew an order authorising the hazard inspector to enter and inspect those premises for hazards.

Disaster hazard
inspector.

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

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

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

(5) A hazard inspector who exercises a power under this section shall identify himself as a hazard inspector to any person in control of the premises to be inspected at the time of the inspection, by the production of his hazard inspector's badge, tag or other identification device provided to him by the Director under subsection (4) and shall explain the purpose of the inspection.

(6) An order made under this section may be issued or renewed on application notwithstanding that no notice of the application is given to any person who may be affected thereby.

(7) The hazard inspector shall prepare a report on the results of any inspection carried out under this section, a copy of which shall be provided to the occupier of the premises.

(8) Where the hazard inspector is of the opinion, after carrying out an inspection under this section, that the condition of any premises poses a danger of serious injury to persons outside of the premises in the event of a disaster, and that the condition of the premises which gives rise to the danger constitutes a violation of any other law, he shall send a copy of the report to any Ministry, Department or other body responsible for the administration of that other law, and notify the occupier of the premises that the report has been supplied to the Ministry or Department in question.

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

(10) This Act does not prejudice any right under any other law to take steps to ameliorate the condition of premises considered to pose danger under sub-section (8).

31. (1) Where the Director or his agent, servant or any other person authorised under this Act identifies any tree, land, building, vehicle, scrap or waste or any other item that poses a danger in the event of a disaster to the health or safety of any area by reason of its condition, then the Director shall issue a notice in writing to the owner or occupant or any other person having a material interest in the property on which the item is located, requesting that specific steps be taken to abate or remove the danger and the period for compliance.

(2) A person who is served with a notice under sub-section (1) and who fails to comply with the directions of the Director within the period specified therein, commits an offence.

(3) A person convicted of an offence under sub-section (2) shall in addition to the penalty imposed under section 37 (1) be liable to pay the costs incurred in abating or removing the danger.

(4) The Director or his agent or servant or any person authorised under this Act, in exercising a function under this section, shall identify himself to the owner, occupant or other person having material interest in the property on which the danger stands, by producing his badge, tag or other identification device explaining the purpose of his mission.

32. (1) No action or proceeding shall be brought against the Crown or the Director or any officer or servant of them, or against any other person covered under this Act to recover compensation for any damage to property occasioned by such person in the exercise or performance in good faith of his powers, duties, or obligations under this Act.

(2) No person shall be personally liable for any act done or default made by him in good faith in the course of carrying out his duties under this Act.

33. (1) A person who during the period of a state of disaster emergency declared under this Act is absent from his usual employment due to duties in connection with the disaster emergency in any capacity whatever shall not suffer any loss of salary or leave or benefits that he may be entitled to for the period of his absence on those duties, whether or not his usual employer consented to his absence.

(2) The Director must certify in writing that the services of any person under sub-section (1) are or had been so required for the performance of tasks related to the disaster emergency.

(3) An employer who fails to comply with sub-section (1) commits an offence.

Compensation.

34. 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 his duties under this Act or Regulations made thereunder, he 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.

Regulations.

35. (1) The Prime Minister may make Regulations for the purpose of implementing the special area precautionary plans, the provisions of this Act and in particular —

- (a) prescribing rules of procedure for the National Advisory Committee and such other committees established under this Act and to determine the payment of reasonable compensation for the use of private property requisitioned by the Director;
- (b) prescribing that different periods shall apply in relation to threatened disaster alerts than those prescribed in the Second Schedule;
- (c) prescribing that notice of the availability of a report under section 30 (7) may be given by advertisement in the Gazette and at least one newspaper published in Antigua and Barbuda where attempts to identify or find an occupier, for the purpose of providing the report under that sub-section or notify its contents under section 30 (8) have not succeeded after one month or such longer period as may be prescribed.

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

(3) By-laws may be made

- (a) in respect of listed premises not in Crown occupation on the recommendation of the occupiers of the premises;

- (b) conferring enforcement powers on shelter managers and shelter officers for the purpose of keeping order in shelters;
- (c) conferring authority on the Director, subject to the advice of the National Advisory Committee —
 - (i) to prescribe the requisition of transport, whether public service or private vehicle, and private lands, buildings and premises for the purposes of this Act and to determine the payment of reasonable compensation for the use of private property requisitioned by the Director;
 - (ii) and his agents, servants or other authorised persons to enter on or pass through or over any private lands or premises for any action in connection with duties under this Act;
 - (iii) to direct the assistance of identified relief agencies and bodies including statutory boards, volunteer forces and similar entities;
 - (iv) to regulate the use of any listed premises by persons taking shelter therein during the period when the premises are in use as shelters;
 - (v) to issue national guidelines and codes to government departments and ministries, statutory boards, groups, organisations, businesses and other entities concerning the preparation, mitigation, recovery of and responses to disasters;
 - (vi) to co-ordinate inter-agency disaster plans.

(4) During any threatened disaster alert or disaster emergency, Regulations, Rules and By-laws made under this Act, other than Regulations required under section 21 to be published in the *Gazette*, may be published either —

- (a) by announcement in any television or wireless transmission media licensed under the Telecommunications Act for transmission and reception in Antigua and Barbuda; 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.

(5) Publication under sub-section (3) shall be deemed to be sufficient compliance, for the duration of any period of disaster alert or disaster emergency, with any requirement of publication under this Act or any other law.

(6) The means of authentication of Regulations published under sub-section (3) shall, unless otherwise prescribed by Regulations published in the *Gazette*, be —

- (a) in the case of media announcements under sub-section (4) (a), the voice of the Prime Minister, a Permanent Secretary, the Director or a Head of a Department of Government;
- (b) in the case of posted notices under sub-section (4) (b), the actual or facsimile signature of the Prime Minister, a Permanent Secretary, the Director or a Head of a Department of Government.

Assaulting or obstructing the Director or a hazard inspector.

36. Any person who assaults, obstructs, threatens or abuses the Director, a hazard inspector, a shelter manager, a shelter officer, a member of the Police Force or a member of the Antigua and Barbuda Defence Force in the execution of his duty in relation to —

- (a) the functions of a shelter manager or shelter officer under section 10; or
- (b) the functions of a hazard inspector under section 30; or
- (c) his functions under any Regulations, Rules or By-laws made under this Act

commits an offence.

37. (1) Any person who commits an offence under this Act or any Regulations made under this Act shall be liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding two years, or both. Penalties

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

(3) It shall be a defence to any charge of an offence under Regulations which, at the time of the act charged as an offence, had been published only in the manner permitted by section 35 (4), for the person charged to show that he did not see or hear an announcement or see a notice or learn from credible sources that the act charged constituted an offence.

38. Where an offence is created by this Act, any information against any person accused of committing that offence may be laid by the Director or a member of the Police Force. Power to institute proceedings.

39. The following Acts shall, with its necessary changes as may be made, be read as one with this Act — Application of certain acts.

(a) The Emergency Powers Act; Cap. 147.

(b) The Emergency Powers (Hurricane, Earthquake, Fire or Flood) Act Cap. 148.

40. This Act binds the Crown. Act binds Crown.

FIRST SCHEDULE

[Sections 15 (3), 18 (1)] (Sections 1⁵(3) and 18(1)).

PUBLIC CONSULTATION PROCEDURE Ch. 19:01

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

2. The Prime Minister shall by regulation made under this Act prescribe the procedures for holding public consultations under this Act.

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

4. Notice shall be published in three issues of the *Gazette* and of at least one newspaper published in Antigua and Barbuda of the date appointed by the Prime Minister for the holding of a public consultation under this Schedule, the first such notice being not less than two weeks before the date so appointed.

5. The Director shall appear or be represented at every public consultation under this Schedule.

6. The person appointed under paragraph 1 may, for the purposes of sections 15(4) and 18(2) of this Act, discharge the functions under this Schedule simultaneously with those relating to any public consultation which that person may have been appointed to hold under any other Act.

SECOND SCHEDULE

[Section 27]

DISASTER ALERT ADVANCE SCHEDULES

Column 1:

Column 2:

<i>Type of Disaster</i>	<i>Disaster Alert Advance Schedules</i>
Earthquakes	[]
Drought	[]
Fires	[]
Floods	[]
Hurricanes	[]
Landslides or slope failures	[]
Storm surges	[]
Tsunamis or tidal waves	[]
Volcanic eruptions and secondary effects	[]
Chemical/Oil Spill	[]
Aviation Disaster	[]
Disasters of any type	[]

THIRD SCHEDULE

[Section 28]

**AGREEMENT ESTABLISHING THE CARIBBEAN DIASTER EMERGENCY
RESPONSE AGENCY**

THE STATES PARTIES:

CONSCIOUS that the fragile economies and ecosystems of Caribbean States are extremely vulnerable to natural and man-made disasters;

RECALLING that during recent decades many Caribbean States have been adversely affected by a succession of hurricanes, namely Barbados (1955); Cuba, Trinidad and Tobago, Jamaica and Haiti (1964); Dominica and the Dominican Republic (1979); Saint Lucia, Haiti and Jamaica (1980) and Antigua and Barbuda, St. Kitts and Nevis and Montserrat (1989);

RECALLING FURTHER the volcanic eruptions in Martinique and St. Vincent and the Grenadines (1902); Guadeloupe (1976); St. Vincent and the Grenadines (1979) as well as the earthquakes in Jamaica (1902); Puerto Rico (1918); the Dominican Republic (1946) and Antigua and Barbuda (1974);

MINDFUL that, from time to time, several States of the Caribbean are subject to disastrous floods and landslides;

AWARE of the need to complement the initiatives of the Pan Caribbean Disaster Preparedness and Prevention Project by establishing a mechanism among Caribbean States in order to facilitate immediate and co-ordinated assistance to States participating therein in the event of a disaster;

HAVE AGREED AS FOLLOWS:

Article I

Definitions

In this Agreement, unless the context otherwise requires —

"Caribbean" means the territories of Member Countries of the Pan Caribbean Disaster Preparedness and Prevention Project;

"CARICOM" means the Caribbean Community;

"Co-ordinator" means the Disaster Emergency Response Co-ordinator appointed pursuant to Article 7;

"disaster" means a sudden or major event attributable directly and solely either to the operation of the forces of nature or to human intervention or to both of them and characterized by widespread destruction of lives or property accompanied by extensive dislocation of public services, but excluding events occasioned by war, military confrontation or mismanagement;

"national relief organization" means the governmental agency charged with responsibility for disaster relief management;

"Participating State" means a State party to this Agreement and "affected Participating State" means such a State in the territory of which a disaster has occurred;

"State" includes a dependent political entity of the Caribbean.

Article 2

Establishment of the Agency

The Caribbean Disaster Emergency Response Agency (herein-after referred to as "the Agency") is hereby established with the membership, structure, powers and functions herein set forth.

Article 3

Membership

Membership of the Agency shall be open to —

- (a) the States listed in the Annex to this Agreement; and
- (b) other States admitted to membership thereof in accordance with Article 32.

Article 4

Objectives

The Agency shall have the following objectives:

- (a) to make an immediate and co-ordinated response by means of emergency disaster relief to an affected Participating State;

- (b) to secure, co-ordinate and channel to interested inter-governmental and non-governmental organisations reliable and comprehensive information on disasters affecting a Participating State;
- (c) to mobilise and co-ordinate disaster relief **from** governmental and non-governmental organisations for affected Participating States;
- (d) to mitigate or eliminate, as far as practicable, the immediate consequences of disasters in Participating States;
- (e) to promote the establishment, enhancement and maintenance on a sustainable basis adequate emergency disaster response capabilities among the Members of the Agency.

Article 5

Organs of the Agency

The Agency shall have the following Organs with the powers and functions specified in this Agreement:

- (a) the Council;
- (b) the Board of Directors; and
- (c) the Co-ordinating Unit.

Article 6

The Council

1. The Council shall consist of the Heads of Government of the Participating States.
2. Every member of the Council shall be entitled to nominate any other 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 membership of the Agency.
4. Subject to the provisions of paragraph 3 of this Article, the Council shall regulate its own procedure.

Article 7

Functions of the Council

The Council shall —

- (a) determine the policy of the Agency;
- (b) determine the organisation with which the Agency may establish functional relationships;
- (c) appoint the Disaster Emergency Response Co-ordinator on the recommendation of the Board of Directors;
- (d) designate such national disaster relief organisations as it may deem expedient as Sub-Regional Disaster Emergency Response Operational Units with the prior consent of the Government of the Participating State concerned;
- (e) approve the budgets of the Agency and the contributions of Participating States thereto;
- (f) perform such other functions as it may deem necessary or expedient to achieve the objectives of this Agreement.

Article 8

The Board of Directors

1. The Board of Directors shall consist of the heads of national disaster relief organisations of Participating States, with the Co-ordinator as its Chairman.

2. The Chairman shall convene the meetings of the Board of Directors which shall meet at least once in every calendar year. The Chairman shall convene extraordinary meetings of the Board at the request of not less than one-half of its members.

3. Subject to the foregoing provisions, the Board of Directors shall regulate its own procedure.

Article 9

Functions of the Board of Directors

The Board of Directors shall —

- (a) establish procedures for mobilising national resources to provide assistance in a timely and efficacious manner;
- (b) establish a system for maintaining and sharing inventories of critical resources likely to be needed by Participating States in the event of a disaster;
- (c) establish arrangements for rapidly accessing financial resources to cover the cost of mobilisation in the event of disaster in a Participating State;
- (d) establish and maintain systems for facilitating the movement of resources originating in or transiting a Participating State having regard to the requirements of immigration and customs authorities;
- (e) establish pro forma lists of the likely requirements of Participating States in the event of disaster;
- (f) establish standards and procedures for the fair and equitable deployment of resources made available by Participating States in response to a disaster;
- (g) determine the standards and procedures for a phased triggering of the disaster response mechanism;
- (h) assess the contributions of Participating States to the administrative budget of the Agency and the Emergency Assistance Fund referred to in Article 25 and make recommendations to the Council;
- (i) perform such other functions as the Council may determine.

Article 10

The Coordinating Unit

1. The Co-ordinating Unit shall be the administrative headquarters of the Agency and it shall be located in such place as the Council shall decide.
2. The Co-ordinator shall be the Chief Administrative Officer of the Agency and shall act in that capacity at all meetings of the Council.
3. The appointment of the Co-ordinator shall be for a term not exceeding five years and he may be re-appointed.

4. The Co-ordinator shall make an annual report to the Council on the work of the Agency.

5. The Co-ordinator shall appoint the staff of the Unit. In particular, he shall appoint a Deputy Disaster Emergency Response Co-ordinator (hereinafter referred to as "the Deputy Co-ordinator") who shall be appointed from among persons with experience of, and shown capacity in, matters relating to emergency relief operations, social welfare or administration. The Deputy Co-ordinator shall serve for a period not exceeding two years and he may be re-appointed.

6. The paramount consideration in the recruitment and appointment of staff in the Co-ordinating Unit and in the determination of their conditions of service shall be the need to ensure the highest standards of competence, efficiency and integrity. Subject to this consideration, due regard shall be paid to the importance of recruiting staff on as wide a geographical basis as possible.

7. In the performance of their duties the Co-ordinator and his staff shall not seek or receive instructions from the Government of any Participating State or from any source external to the agency. They shall refrain from any action which may reflect adversely on their positions as international officials responsible only to the Agency.

8. Participating States undertake to respect the international character of the responsibilities of the Co-ordinator and his staff and not seek to influence them in the discharge of their duties.

9. Subject to the approval of the Board of Directors, the Co-ordinator shall establish the terms and conditions of service of the staff of the Co-ordinating Unit.

Article 11

Functions of the Coordinating Unit

In addition to any other functions which may be allocated to it by the Council or the Board of Directors, the Co-ordinating Unit shall —

- (a) develop and maintain a reliable damage assessment system and procedures to facilitate rapid and effective evaluation of a national disaster;
- (b) develop and maintain a comprehensive and reliable data base of key relevant resources (persons, facilities, equipment supplies) and a system for updating it;
- (c) establish, equip and maintain an emergency operations system capable of handling emergency telecommunications and facilitating co-

- (n) 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) review periodically disaster response capabilities of Participating States and ensure that resources identified for the purpose are immediately available in the event of disasters in Participating States;
- (p) prepare the administrative and emergency budgets of the Agency for submission to the Board of Directors.

Article 12

Sub-Regional Disaster Emergency Response Operational Units

1. Where, pursuant to Article 7(d), 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 bear 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;
- (d) keep and maintain at the operational focal point in serviceable and optimal working condition an equipment package containing essential items determined by the Board of Directors, subject to the approval of the Council.

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

Article 13

Undertaking of Participating States

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

- (a) to establish or maintain, as the case may be, national relief organisations capable of responding swiftly, effectively and in a co-ordinated manner to disasters in Participating States;
- (b) to establish emergency disaster planning groups and define national policies and priorities in the event of disasters;
- (c) provide national relief organisations with adequate support including named emergency co-ordinators, liaison officers with key Ministries, emergency services, utilities and the like;
- (d) to task the named agencies (including the emergency services, Health and Public Works) and their co-ordinators with specific functions and responsibilities to ensure the development of an adequate response capability to support national disaster action;
- (e) to define the role and functions of key agencies such as the Security Services, Health and Public Works in disaster emergency response management and establish a system for regular review of their procedures for co-ordinated response;
- (f) establish and equip a suitable emergency operations centre capable of handling emergency telecommunications and co-ordinating emergency responses involving many services;
- (g) develop and maintain an emergency telecommunication system based on the most appropriate technology to ensure the co-ordination of emergency operations involving the emergency services mentioned above as well as voluntary private sector services;
- (h) establish and strengthen procedures for coping with major disaster threats and scenarios and review systems for testing the procedures by drills and simulations;
- (i) to review and rationalise legal arrangements for disaster mitigation and emergency action;
- (j) to review and catalogue past disaster events and list credible future emergency event scenarios and identify and map areas with special problems like floods prone and landslide prone areas;
- (k) to 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;

- (1) to develop, in collaboration with competent governmental agencies, an emergency shelter policy and programme involving the full participation of local officials in community-based organisations;
- (m) to develop and review a system for community participation, local mobilisation and counter disaster action in the event of isolation;
- (n) to develop strategies for loss reduction in the public and private sectors focusing on vital economic activities and life-line activities like water supply;
- (o) to develop a system and procedures for damage assessment in order to facilitate rapid and effective post impact evaluation;
- (p) to 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 co-operation programmes designed to develop disaster management capabilities;
- (s) to identify, maintain in a state of readiness and make available immediately on request by the Co-ordinator relevant material and human resources in the event of disaster.

Article 14

Relations with Governmental and Non-governmental Institutions

1. The Agency may conclude agreements with Governmental, Inter-governmental and Non-governmental organisations or agencies in order to achieve the objectives of the Agency.

2. Unless the Council decides otherwise, the Co-ordinator may negotiate and conclude such Agreements on behalf of the Agency.

Article 15

Disciplined Forces

1. Where, in response to a request for assistance by any Participating State, members of the disciplined forces are despatched to any part of the territory of the requesting State, the Co-ordinator shall, subject to the express prior agreement of the competent authorities of the requesting State, designate a Special Co-ordinator 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 Co-ordinator shall be charged with responsibility for co-ordinating the disaster relief efforts of the disciplined forces despatched to the Participating State concerned for the purpose.

3. No member of the disciplined forces shall be despatched 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 16

Direction and Control of Assistance

1. Subject to paragraph 2, the overall direction, control, co-ordination and supervision of assistance despatched 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 co-operation 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 stations 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 despatched to the requesting State by a sending State during periods of assistance shall be unaffected and their prompt return shall be ensured.

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

Article 17

Competent Authorities and Contact Points

1. In the absence of a contrary indication from Participating States the competent authority and contact point to make requests for and accept offers of assistance in the event of a disaster shall be the head of the national relief organisation.

2. Contact points and a focal point within the Co-ordinating Unit shall be made available continuously.

3. The Co-ordinating Unit shall regularly and expeditiously provide Participating States and relevant international organisations with the information referred to in paragraphs 1 and 2.

Article 18

Confidentiality and Public Statements

1. Participating States shall request the confidentiality of any confidential information becoming available to them in connection with assistance requested in the event of a disaster. Such information shall be used exclusively for the purpose of the assistance agreed upon.

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

Article 19

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 20

Termination of Assistance

1. The Co-ordinator shall, subject to paragraph 2, in 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 request the termination of assistance provided or received under this Agreement.
3. The Co-ordinating Unit shall regularly and expeditiously provide Participating States and relevant international organisations with the information referred to in paragraphs 1 and 2.

Article 21

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, detention and legal process including criminal, civil and administrative jurisdiction of the requesting State, in respect of acts or omissions in the performance of their functions in rendering assistance;
 - (b) 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;
 - (c) 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.

4. Nothing in this Article shall require the requesting State to accord its nationals or permanent residents the privileges and immunities provided for in paragraph 2 (b).

5. All persons enjoying privileges and immunities under this Article have a duty to respect the law and regulations of the requesting State and shall not interfere in the domestic affairs of the requesting State.

Article 22

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 and from the requesting State.

Article 23

Claims and Compensation

1. Participating States shall co-operate in order to facilitate the settlement of legal proceedings and claims under this Article.

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

- (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) hereof,
- (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 for loss of or damage to non-consumable equipment or materials related to the assistance except in cases of willful misconduct or gross negligence by individuals causing the death, injury or loss or damage.

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, in whole or in part, to its nationals or permanent residents.

Article 24

The Administrative Budget

1. The Agency 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 to be determined by the Board of Directors and approved by the Council.
3. The administrative budget shall be established on a biennial basis and the Co-ordinator shall cause the accounts of the Agency to be audited annually by external auditors approved by the Board of Directors.
4. The report of the auditors shall be presented by the Co-ordinator to the Board of Directors as soon as practicable for the consideration and approval of the Board.
5. The Co-ordinator, with the approval of the Board of Directors, shall establish financial regulations for the Agency.

Article 25

Emergency Assistance Fund

1. The Agency shall establish an Emergency Assistance Fund (hereinafter in this Article 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 to be determined by the Board of Directors and approved by the Council.

3. The Co-ordinator may accept contributions to the Fund from sources external to the Agency on such conditions as may be prescribed by them and agreed by the Board of Directors but without discrimination as to the Participating States to receive such assistance.

4. The Co-ordinator shall cause the accounts of the Fund to be audited annually by the auditors referred to in paragraph 3 of Article 24.

5. Paragraph 4 of Article 24 shall apply for the purposes of the Fund.

Article 26

Privileges and Immunities of the Agency

1. The Agency 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. The Agency, its property and assets shall enjoy in the territories of the Participating States immunity from legal process except to the extent that the Agency waives this immunity expressly in any particular case.

3. The property and assets of the Agency in Participating States wherever located and by whomsoever held shall be immune from search, requisition, confiscation, appropriation or any other form of seizure by executive or legislative action.

4. The property and assets of the Agency shall be exempt from restrictions, regulations, controls and moratoria of any kind.

5. The archives of the Agency, wherever located, shall be inviolable. Proprietary data, confidential information and personnel records shall not be placed in archives open to public inspection.

6. In respect of its official communications the Agency shall be accorded by each Participating State treatment no less favourable than that accorded by that State to other international organisations.

Article 27

Representatives and Staff of the Agency

Representatives of Participating States attending meetings of the Council of the Board of Directors and the Co-ordinator and other staff of the Unit 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 the Agency as appropriate expressly waives this immunity in any particular case;
- (b) where they are not nationals of the 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 travelling facilities as are accorded by that Participating State to the representatives, officials and employees of comparable rank of other Participating States.

Article 28

Exemptions from Taxes and Customs Duties

1. The Agency, its assets and property, its income, and its operations and transactions within the contemplation of this Agreement, shall be exempt from all direct taxation and goods imported or exported for its official use shall be exempt from all customs duties. The Agency 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 the Agency are made by or on behalf of the Agency, and where the price of such 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 or in respect of salaries and other emoluments paid or any other form of payment made by the Agency to the Co-ordinator and staff of the Agency as well as experts performing missions for the Agency, not being their nationals.

Article 29

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 the Agency shall have no vote in the Council or the Board of Directors 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 grossly and persistently 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 shall be made by the Council.

Article 30

Settlement of Disputes

In the absence of a contrary agreement between the parties concerned, all disputes arising from or in connection with the interpretation or application of this Agreement shall be settled by the Council.

Article 31

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 32

Entry into Force

1. This Agreement shall enter into force when Instruments of Ratification have been deposited by at least seven of the States listed in the Annex to this Agreement including Barbados, Jamaica and Trinidad and Tobago.

2. Any other Caribbean State not listed in the Annex to this Agreement may apply to become a member of the Agency. Applications for membership shall be submitted to the Co-ordinating Unit. Admission to membership of the Agency shall be determined by the Council on the recommendation of the Board of Directors.

3. A State admitted to membership in accordance with paragraph 2 shall deposit an appropriate Instrument of Accession with the CARICOM Secretariat before becoming entitled to enjoy the privileges of membership of the Agency.

Article 33

Depository

1. The original of this Agreement and any amendments thereto shall be deposited with the CARICOM Secretariat.

2. The Secretary-General of CARICOM shall notify the Co-ordinating Unit of the Agency of the deposit of Instruments of Ratification or Accession, as the case may be.

Article 34

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 Co-ordinating Unit which shall transmit it to the Board of Directors with its comments.

3. The Board of Directors shall consider the proposal together with the comments of the Co-ordinating 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 35

Denunciations and Withdrawal

1. Any Participating State may denounce this Agreement and withdraw from the Agency.

2. Any Participating State wishing to withdraw from the Agency shall give to the Co-ordinating Unit twelve months' notice of its intention to do so and the Co-ordinator shall immediately notify the other Participating States.

ANTIGUA 44 *The Disaster Management Act, 2002.* No. 13 of 2002.
AND
BARBUDA

3. The notice mentioned in paragraph 2 may be withdrawn at any time prior to the date on which withdrawal is to take effect.

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

Article 36

Provisional Application

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

2. Upon any such declaration, the Secretary-General of CARICOM shall convene an inaugural meeting of the Council.

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

Signed by **V.C. Bird**

For the Government of Antigua and Barbuda on 7th March, 1991
at St. John's, Antigua

Signed by

For the Government of the Bahamas on 2nd July, 1991
at Basseterre, St. Kitts and Nevis

Signed by **L. Erskine Sandiford**

For the Government of Barbados on 26th February, 1991
at Port-of-Spain, Trinidad and Tobago

Signed by

For the Government of Belize on 26th February, 1991
at Port-of-Spain, Trinidad and Tobago

Signed by

For the Government of the British Virgin Islands on _____, 1991
at _____

Signed by **M. Eugenia Charles**

For the Government of Dominica on _____, 1991
at _____

Signed by Francis Alexis
For the Government of Grenada on 14th May, 1991
at Bridgetown, Barbados

Signed by
For the Government of Guyana on 2nd July, 1991
at Basseterre, St. Kitts and Nevis

Signed by
For the Government of Jamaica on 26th February, 1991
at Port-of-Spain, Trinidad and Tobago

Signed by
For the Government of Montserrat on 4th March, 1991
at Plymouth, Montserrat

Signed by
For the Government of St. Kitts and Nevis on 26th February, 1991
at Port-of-Spain, Trinidad and Tobago

Signed by
For the Government of Saint Lucia on 26th February, 1991
at Port-of-Spain, Trinidad and Tobago

Signed by
For the Government of Saint Vincent and the Grenadines on 14th May, 1991
at Bridgetown, Barbados

Signed by A.N.R. Robinson
For the Government of Trinidad and Tobago on 26th February, 1991
at Port-of-Spain, Trinidad and Tobago

ANNEX

Antigua and Barbuda
The Bahamas
Barbados
Belize
British Virgin Islands
Dominica
Grenada
Guyana

ANTIGUA 46 *The Disaster Management Act, 2002.* No. 13 of 2002.
AND
BARBUDA

Jamaica
Montserrat
St. Kitts and Nevis
Saint Lucia
Saint Vincent and The Grenadines
Trinidad and Tobago

Passed in the House of Representatives
this 29th day of July, 2002.

B. Harris,
Speaker.

S. Walker,
Clerk to the House of Representatives.

Passed the Senate this 15th day of
August, 2002.

M. Percival,
President.

S. Walker,
Clerk to the Senate.

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