

CAYMAN ISLANDS



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**THE DISASTER PREPAREDNESS AND HAZARD MANAGEMENT
LAW, 2016**

(LAW 46 OF 2016)

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LAW, 2016**

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SCHEDULE - Organisation and Composition of Management Executive and Management Council

CAYMAN ISLANDS

Law 46 of 2016.

I Assent

Helen Kilpatrick

Governor.

16th November 2016

**A LAW TO ESTABLISH A DEPARTMENT OF DISASTER
PREPAREDNESS AND HAZARD MANAGEMENT FOR THE PURPOSE
OF MANAGING EMERGENCY SITUATIONS AFFECTING THE
ISLANDS; AND TO MAKE PROVISION FOR INCIDENTAL AND
CONNECTED MATTERS**

ENACTED by the Legislature of the Cayman Islands.

1. (1) This Law may be cited as the Disaster Preparedness and Hazard Management Law, 2016.

Short title and
commencement

(2) This Law shall come into force on such date as may be appointed by Order made by the Cabinet and different dates may be appointed for different provisions of this Law.

2. In this Law -

Definitions

“All Clear” means an official notification emanating from the Department of Hazard Management that a hurricane, tropical storm or other disaster has passed, or no longer poses a threat;

(2013 Revision) “Chief Officer” has the meaning ascribed to it in the Public Service Management Law (2013 Revision);

“Comprehensive Disaster Management Programme” means a programme that sets out directives relating to the preparation, mitigation, response and recovery in respect of all hazards that may afflict the Islands;

“Department” means a department of hazard management established by section 3 to be called the Department of Hazard Management Cayman Islands;

“Director” means the Director of the Department, appointed under section 3;

“disaster” means the occurrence of -

- (a) an event, caused by an act of God or otherwise, which results in death or injury of persons, loss or damage to property or damage to the environment, on a scale which requires emergency intervention, and includes widespread dislocation of essential services;
- (b) earthquake;
- (c) hurricane;
- (d) flood;
- (e) fire;
- (f) outbreak of pestilence;
- (g) outbreak of infectious disease; or
- (h) other calamity, whether similar to the foregoing or not;

“disaster preparedness” includes an activity undertaken in anticipation of a disaster, hazard or other emergency situation in order to respond to and to reduce any negative impact;

“functions” includes powers and duties;

(2013 Revision) “Government Company” has the meaning ascribed to it in the Public Service Management Law (2013 Revision);

“hazard” means a natural or man-made phenomenon which has the potential to cause environmental damage or economic loss, or threaten life and well-being, and may require emergency intervention by the Governor, the Department or other appropriate agency;

“Management Council” means the National Hazard Management Council established under section 14;

“Management Executive” means the National Hazard Management Executive established under section 14;

“Management Plan” means the National Hazard Management Plan the preparation of which is assigned to the Director by section 6(4);

“Ministry” means the ministry with responsibility for Home Affairs;

“mitigation” means any step taken to reduce the impact of a hazard on the Islands;

“police officer” has the same meaning as in the Police Law (2014 Revision); (2014 Revision)

“Statutory Authority” has the meaning ascribed to it in the Public Service Management Law (2013 Revision); and

“vulnerable area” means an area identified in the National Mitigation Plan as being susceptible to hazards.

3. (1) There is established for the purposes of this Law, a body to be called the Department of Hazard Management Cayman Islands, which shall comprise a Director and Deputy Directors appointed by the Governor, and other persons appointed or designated to discharge the functions of the Department under this Law. Establishment and staffing of the Department

(2) The staff of the Department shall be appointed or designated on such terms and conditions as may be specified in their instruments of appointment or designation, which terms and conditions shall be subject to the Public Service Management Law (2013 Revision). (2013 Revision)

4. (1) The functions of the Department are to facilitate and co-ordinate the development and implementation of Comprehensive Disaster Management Programmes and, without prejudice to the generality of the foregoing, such functions shall include - Functions of the Department

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

- (c) providing appropriate training programmes and consulting services related to all aspects of disaster preparedness, disaster mitigation, loss reduction and disaster management;
- (d) planning and implementing programmes to enhance public awareness and understanding of disaster related issues, emergency management, hazard prevention and other similar matters;
- (e) identifying and analyzing hazards or emergency situations and conducting related operational research into their effects;
- (f) advising the Cabinet, the Management Executive and the Management Council on major issues relating to disaster mitigation, preparedness, warning systems and emergency management;
- (g) preparing guidelines for disaster relief, response and recovery;
- (h) initiating, co-ordinating, inspecting, evaluating and supporting -
 - (i) the development of a National Hazard Management Plan;
 - (ii) the development and testing of emergency response plans by appropriate agencies including the emergency services, the Royal Cayman Islands Police Service, Government departments, the private sector, and voluntary agencies; and
 - (iii) contingency plans related to specific incidents;
- (i) identifying any emergency contingencies that are within or related to the area of responsibility of each Government department and developing, with that Government department, a plan for mitigating or responding to that contingency;
- (j) being instrumental in stimulating public interest in disaster mitigation, preparedness and emergency management and in securing public co-operation and participation in achieving planned objectives;
- (k) co-ordinating all emergency and disaster related exercises for the Islands; and
- (l) encouraging -
 - (i) measures for mitigating the effect of hazards and to reduce losses from disaster; and
 - (ii) the development of comprehensive disaster prevention and preparedness programmes and capabilities.

(2) For the purpose of discharging assigned functions under this Law, the Director may, subject to the provisions of this Law and the Public Service Management Law (2013 Revision), do anything and enter into any transaction which, in the opinion of the Director, is necessary to ensure the performance of the functions.

(2013 Revision)

5. (1) Where a disaster exists, the Director, subject to the direction and to consultation with the Management Council, shall have power to - Powers of the Director

- (a) require public officers to respond and assist as directed;
- (b) requisition publicly owned vehicles, plant and equipment and determine their use and deployment; and
- (c) determine how publicly owned facilities shall be used, and for the purposes of this section “publicly owned” means owned by the Government or by a statutory body whose funds include monies appropriated by the Legislative Assembly.

(2) In order to assist in both planning and response the Director may temporarily deploy staff from such other agencies as the Director sees fit, subject to consultation with the relevant Chief Officers.

6. (1) The Director shall be responsible for - Responsibilities of the Director

- (a) the operations and maintenance of a National Emergency Operations Centre to function as the headquarters of the activities undertaken in response to a disaster; and
- (b) the staffing and management of the National Emergency Operations Centre.

(2) The Director shall cause to be established and maintained -

- (a) records of the work and activities of the Department; and
- (b) such other records or particulars with respect to the Department as the Director may consider necessary.

(3) The Director shall, within three months from the beginning of each year, prepare and submit to the Cabinet a report containing a summary of the Department’s activities for the preceding year and such report shall be laid in the Legislative Assembly.

(4) The Director shall prepare a National Hazard Management Plan comprising a statement of the contingency arrangements under the Director’s co-ordination, for responding to the threat, event or aftermath of a disaster in the Islands whether or not the threat, event or aftermath is such as to prompt the issuance of an alert, a declaration of disaster, a declaration of a state of emergency or a notice of evacuation, and shall cause the Management Plan to be reviewed annually.

(5) The Director shall submit the Management Plan to the Chief Officer for the Ministry with responsibility for Home Affairs for review and after such review the Chief Officer shall cause it, together with any recommendations, to be

submitted for the review of the Management Executive which shall submit it together with any recommendations for the consideration of the Cabinet.

Establishment of a National Emergency Notification System

7. (1) There shall be established a National Emergency Notification System for the Islands.

(2) The National Emergency Notification System shall be operated under the supervision of the Director.

National Emergency Notification System

8. (1) The National Emergency Notification System shall enable the Government to broadcast emergency announcements to the public on such frequency or in such manner as is specified in a memorandum of understanding between the Government and a person who is licensed to operate a broadcasting station under the Information and Communications Technology Authority Law (2011 Revision).

(2011 Revision)

(2) No announcement shall be broadcast on the National Emergency Notification System unless it is in writing and approved and signed by the Governor or the Chairman of the Management Council in consultation with the Director.

- (3) Subject to subsection (6), a person who contravenes subsection (2) -
- (a) commits an offence and is liable, on summary conviction, to a fine of five thousand dollars; and
 - (b) is, without prejudice to the power of the court to make any other order or grant any other relief, liable in civil proceedings to pay damages to any person who suffers injury, loss or damage as a result of relying on the announcement.

(4) The Director shall keep an original signed copy of all announcements broadcast on the National Emergency Notification System and shall, upon application in writing, provide the applicant with a certified copy of any such original signed copy.

(5) All announcements broadcast on the National Emergency Notification System shall be presumed to be broadcast in accordance with subsection (2).

(6) A person with whom the Government has entered into a memorandum of understanding referred to in subsection (1) -

- (a) is entitled to presume that all announcements being broadcast on the National Emergency Notification System are being broadcast in accordance with subsection (2); and

- (b) shall not be liable under subsection (3) unless the person knew or had reason to believe that the announcement was not being broadcast in accordance with subsection (2).

9. (1) The Director shall establish and maintain a list of suitable premises available for use as emergency shelters in the event of a threat of a disaster or the aftermath of a disaster. Emergency shelters

- (2) In the list referred to in subsection (1) the Director shall -
 - (a) distinguish between Government property and other premises;
 - (b) list the facilities available at such premises; and
 - (c) indicate the suitability of each of the listed premises for use during a disaster or in the event or aftermath of a disaster.

- (3) The Director shall -
 - (a) assign to each of the listed premises, a shelter manager charged with the responsibility of managing the shelter to which the shelter manager is assigned during any period where the shelter is being used for the purposes of this Law, and may assign one or more persons as assistant shelter managers to assist any shelter manager; and
 - (b) develop and publish at each shelter such rules and guidelines as may be necessary for the proper management of the listed premises that are being used for the purposes of this Law.

(4) A person seeking admission to a shelter shall provide information in such form as the Director may require for registration, to assist in the tracking of persons accommodated during the shelter operation.

(5) No liability shall attach to the Government, shelter managers, assistant shelter managers, Government employees or agents or the owner or occupier of listed premises in respect of -

- (a) accidental or negligent loss or damage to property brought into the shelter by a person seeking protection; or
- (b) persons who leave the shelter prior to the issuance of an All Clear.

(6) A shelter manager may suspend or expel from the shelter any person who commits a serious breach or persistently breaches any of the guidelines, and may enforce the suspension or expulsion by the use of reasonable force.

10. Every Chief Officer and Head of a Statutory Authority or Government Company shall - Information to be supplied to the Director

- (a) supply to the Director annually or at such time, in such form and by such date as may be required by the Cabinet such information as may be requested by the Director for the purpose of sections 4(1) and 6(4); and
- (b) cause Response and Continuity Plans for the Ministry, Department, Agency, Portfolio or Board to be prepared or reviewed not later than 30th April each year, reviewed by the Minister and then submitted to the Director, who shall provide Cabinet with a copy of every such Plan.

Community service
activities

11. (1) An employee who participates in an eligible community service activity as a volunteer or who is part of the National Response Structure under the Cayman Islands National Disaster Plan is entitled to paid leave where the employee's participation is in accordance with this Law.

(2) An employee under subsection (1) is entitled to up to ten working days leave of absence and pay at the rate that the employee would have received if the employee was in attendance at the place of employment on the respective days.

(3) An employee under subsection (1) who is required to participate in eligible community service shall -

- (a) give notice in writing to the employer of the application for community service leave as soon as practicable, which, in circumstances where the employee is responding to a national emergency or national disaster, may be at a time after the leave of absence has commenced; and
- (b) provide a copy of the certificate requesting, inviting or endorsing participation in the eligible community service from the Department of Hazard Management, such request or invitation detailing the date of the leave of absence.

(4) Every organization carrying out activities that qualify as eligible community service, and for which an employee will need to apply for leave of absence and a certificate under subsection 3, shall request such certificates from the Department of Hazard Management Cayman Islands.

(5) For the purposes of this section -

- (a) "eligible community service" means voluntary activity that -
 - (i) is in response to a national emergency or natural disaster or is training in preparation for a national emergency or natural disaster that is carried out either by the Government, a service organization, a non-governmental organization, a community association or similar organization which is part

of the National Response Structure under the Cayman Islands National Disaster Plan of which the employee is a member;

- (ii) is carried out by the Cayman Islands Cadet Corps, the Fire Brigade or the Royal Cayman Islands Police Service for the purposes of responding to or preparing for a national emergency or natural disaster; or
- (iii) the Cabinet may by Regulations prescribe,

for which the employee may receive an honorarium, per diem, gratuity or other similar reward for having participated in the activity; and

- (b) “employee” includes a casual employee and a part-time employee.

12. (1) The Director shall, in consultation with the relevant Government institutions and organizations and the private and voluntary sectors, prepare for the approval of the Cabinet a plan for the mitigation and prevention of disasters that shall be known as the National Mitigation Plan (in this section referred to as the “plan”).

National Mitigation Plan
- vulnerable areas

(2) The plan shall include strategies, policies and programmes for the management and development of the vulnerable areas and for protection of the population in the vulnerable areas.

(3) The plan may communicate strategies, policies, standards and designations by means of maps and diagrams.

(4) The plan does not authorise any development that is not permitted, nor prohibit any development that is permitted, under the Development and Planning Law (2015 Revision).

(2015 Revision)

(5) Before submitting the plan for the approval of the Cabinet, the Director shall make available a draft of such plan to the public to enable the public to submit comments in writing on the said draft to the Director.

13. (1) Where the Director reports to the Governor -

Disaster area or
hazardous area

- (a) the existence of any local condition in any part of the Islands tending to endanger public safety, and there are no powers under any law other than this section whereby such condition may be removed or guarded against; or
- (b) that any part of the Islands appears to be threatened with or affected by a natural or technological hazard and that measures

apart from, or in addition to, those specifically provided for in this Law, should be taken promptly,

the Governor after consultation with the Premier may by Order declare that part of the Islands to be a disaster area or hazardous area and direct the enforcement of any measures recommended by the Director or any other measures that the Governor thinks expedient for removing or otherwise guarding against any such condition and the probable consequences thereof or mitigating as far as possible, any such hazard.

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

(3) Any Order made under this section -

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

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

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

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

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

14. (1) There is established a National Hazard Management Executive and a National Hazard Management Council.

National Hazard Management Executive and Council

(2) The provisions of the Schedule shall have effect as to the constitution, functions and procedures of the Management Executive and the Management Council.

(3) The Cabinet may by Order amend the Schedule.

Schedule

15. (1) The Director shall establish a liaison with such organisations in the private sector as the Director thinks fit for the purposes of establishing communication links with them in relation to the procedures of those organisations under section 6(4).

Director to establish a liaison with the private sector

(2) For the purposes of subsection (1), the Director may enter into such arrangements as the Director considers necessary with any organisation requiring the provision by that organisation of any information as may be requested by the Director for the purposes of sections 4(1) and 6(4).

(3) The Director in consultation with the Management Council may establish Community Emergency Response Teams for the purpose of assisting in the preparation for the response to a disaster that may occur in any of the Districts throughout the Islands.

(4) The Community Emergency Response Teams shall support the National Hazard Management Plan and the Department through assistance in the following areas -

- (a) preparation, mitigation, response and recovery in their community;
- (b) determining needs and requests for assistance;
- (c) receiving, recording and distributing resources;
- (d) assisting in damage assessment; and
- (e) communicating relevant information from the District to the National Emergency Operations Centre.

Appointment of consultants and experts

16. (1) The Chief Officer may appoint consultants and experts to assist the Ministry, Portfolio, Department or Agency, as the case may be, in the performance of its functions.

(2) The consultants and experts appointed under subsection (1) shall be paid such remuneration as the relevant Chief Officer may approve.

(3) Any remuneration paid pursuant to subsection (2) shall be paid out of the annual operating budget of the Department.

Immunity and indemnity

17. (1) Neither the Department nor its employees shall be liable in damages for anything done or omitted in the discharge or purported discharge of their respective functions, responsibilities, powers or duties under this Law unless it is shown that the act or omission was in bad faith.

(2) The Department shall indemnify its staff and other authorised personnel against all claims, damages, costs, charges or expenses incurred by them in the discharge or purported discharge of their functions, responsibilities, powers and duties under this Law, except claims, damages, costs, charges or expenses caused by their bad faith.

Obstruction; refusal to furnish information

18. Any person who -

- (a) assaults or obstructs the Director or any other duly authorised person acting in execution of a duty under this Law; or
- (b) refuses to furnish any information required pursuant to the provisions of an Order made under section 13, or knowingly furnishes false information,

commits an offence and is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of twelve months, or to both.

Unlawful entry into disaster area or hazardous area

19. (1) Any person who without proper authorisation enters or is found in a disaster area or hazardous area or, being in a disaster area or hazardous area, refuses to leave that area, commits an offence and is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of twelve months, or to both.

(2) A police officer may, in a disaster area or hazardous area, arrest any person that the police officer reasonably suspects to be committing an offence under subsection (1).

(3) Notwithstanding the description of a disaster area or hazardous area specified in an Order made under section 13, a police checkpoint established in

respect of a disaster area or hazardous area shall be deemed to be located on the perimeter of that disaster area or hazardous area and a person who crosses that checkpoint without proper authorisation to do so commits an offence and is liable on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of twelve months, or to both.

(4) For the purpose of this section, “proper authorisation” means authorisation issued by or on behalf of the Governor, the Commissioner of Police or the Director.

20. The Cabinet may make regulations generally for giving effect to the provisions of this Law, and without prejudice to the generality of the foregoing, may make regulations - Regulations

- (a) in relation to the prevention, mitigation and suppression of technological, medical, environmental and agricultural hazards;
- (b) in relation to the collection and publication of data pertaining to disaster mitigation preparedness, recovery and emergency management;
- (c) prescribing matters in respect of which fees are payable, the amount of such fees and the persons liable to pay them; and
- (d) prescribing the use and management of any listed premises referred to in section 9.

SCHEDULE

Section 14

ORGANISATION AND COMPOSITION OF MANAGEMENT EXECUTIVE AND MANAGEMENT COUNCIL

A. - NATIONAL HAZARD MANAGEMENT EXECUTIVE

1. The Management Executive shall be responsible for national policy direction and shall ensure the availability of the most senior government leadership for emergencies.
2. The Management Executive may communicate with the United Kingdom authorities, Overseas Territories, other jurisdictions and international organisations through the Governor’s Office.
3. The Management Executive shall comprise the following members and any other persons as deemed necessary by the Governor -

- (a) The Governor - Chairman
- (b) Premier
- (c) Leader of the Opposition
- (d) Deputy Governor
- (e) Attorney General
- (f) Minister with responsibility for Finance
- (g) Chief Officer, Ministry of Home Affairs
- (h) Director, Hazard Management Cayman Islands
- (i) Police Commissioner
- (j) Cabinet Secretary
- (k) District Commissioner

B. - NATIONAL HAZARD MANAGEMENT COUNCIL

4. The Management Council shall have overall responsibility for the management of any non-security threat which may affect the Islands.

5. The Chairman of the Council may convene the Council when there is a threat to the Islands from any potential or actual hazard and during response to and recovery from the impact of a hazard.

6. The Council shall meet at least twice per year for purposes of planning and preparedness.

7. The Council shall comprise the following members and any other members co-opted by the Chairman -

- (a) Deputy Governor - Chairman
- (b) Chief Officer, Ministry of Home Affairs - Deputy Chairman
- (c) Cabinet Secretary
- (d) Solicitor General (or designate)
- (e) All Chief Officers
- (f) Director, Department of Children and Family Services
- (g) Director, Hazard Management Cayman Islands - Secretary
- (h) Deputy Commissioner of Police
- (i) Chief Fire Officer
- (j) Director General, Cayman Islands National Weather Service
- (k) Director, Public Works
- (l) Director, National Roads Authority
- (m) Director, Vehicle and Equipment Services
- (n) Director, Office of Telecommunications
- (o) Chair, Sister Islands Emergency Committee
- (p) Director, Government Information Services
- (q) Director General, Civil Aviation Authority
- (r) Director, Department of Environmental Health

- (s) Director, Department of Environment
- (t) Chief Immigration Officer
- (u) Chief Executive Officer, Airports Authority
- (v) Chief Executive Officer, Port Authority
- (w) Collector of Customs
- (x) Chief Executive Officer, Chamber of Commerce
- (y) Director, Red Cross
- (z) Director, Adventist Development Relief Agency
- (aa) Director, Water Authority
- (bb) Director, Tourism
- (cc) Director, Risk Management
- (dd) Director, Needs Assessment Unit

8. The Council shall support the Comprehensive Disaster Management Programme and the efforts of Hazard Management Cayman Islands to include all residents in national risk management efforts, and shall -

- (a) develop and approve national policies, standards and benchmarks related to hazard and risk management;
- (b) discuss economic, political, legal and social implications of actual and potential hazards and develop recommendations for their management;
- (c) evaluate strategies for managing actual and potential hazards;
- (d) provide advice and guidance to the Management Executive;
- (e) review and approve the National Hazard Management Plan and ensure incorporation of lessons learnt;
- (f) review and approve operational plans and procedures;
- (g) ensure appropriate state of preparedness of all ministries, portfolios, departments and agencies;
- (h) monitor continuity of operations and recovery planning to ensure that in the event of a disaster, Government will be able to continue operations;
- (i) ensure adequate support for the National Emergency Operations Centre from ministries, portfolios, departments and agencies;
- (j) review Laws pertaining to hazard and risk management and recommend amendments where necessary;
- (k) develop drafting instructions for the preparation of Regulations;
- (l) approve designations of specially vulnerable areas and other special areas as may be declared;

- (m) encourage private sector efforts in risk management and provide technical support where possible;
- (n) support public awareness efforts; and
- (o) direct and monitor work of its committees and sub-committees.

Passed by the Legislative Assembly the 24th day of October, 2016.

J. O'Connor-Connolly

Speaker.

Zena Merren-Chin

Clerk of the Legislative Assembly.