



REPUBLIC OF NAURU

# NATIONAL DISASTER RISK MANAGEMENT (AMENDMENT) ACT 2020

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No. 5 of 2020

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An Act to amend the *National Disaster Risk Management Act 2016*.

Certified: 4<sup>th</sup> June 2020

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Enacted by the Parliament of Nauru as follows:

**1 Short title**

This Act may be cited as the *National Disaster Risk Management (Amendment) Act 2020*.

**2 Commencement**

This Act commences on 16 March 2020.

**3 Amendment of the National Disaster Risk Management Act 2016**

The *National Disaster Risk Management Act 2016* is amended by the provisions of this Act.

**4 Amendment of Section 3**

Section 3 is amended by:

(a) deleting and substituting the following words and their definitions:

**‘authorised officer’** includes a police officer and any person appointed or engaged by the Minister to respond to a disaster;

**‘disaster’** means a serious disruption of the functioning of society, which poses a significant, widespread threat to human life, health, property or the environment whether arising from accidents, nature, human activities or such other unforeseeable causes, events or activities, whether occurring suddenly or developing as a result of long term processes;

(b) inserting the following in alphabetical order:

**‘direction’** includes instructions, orders, rules or other administrative means of requiring persons to or not to do, perform or act, whether oral or written;

**5 Amendment of Section 7**

Section 7 is amended by inserting a new paragraph (d) as follows:

‘(d) any limitations or restrictions placed in respect of any rights or freedoms shall be interpreted with the spirit and intent of *Article 3* of the *Constitution*.’

**6 Amendment of Section 8**

Section 8 is amended:

(a) in subsection (1) by deleting the number ‘(1); and

(b) deleting subsection (2).

**This clause now reads:**

This Act binds all persons, including the Government.

**7 Amendment of Section 20**

Section 20 is amended by inserting a new subsection (9) as follows:

'(9) Notwithstanding subsection (2), the Minister may appoint or assign the responsibilities of the National Controller to a person having the expertise, qualification or skills to manage a particular nature of disaster.'

**8 Amendment of Section 33**

Section 33(2) is deleted and substituted as follows:

- (2) An authorised officer may exercise a power only during the period of the State of Disaster for the purposes of:
- (a) ensuring public safety, public order or public health;
  - (b) preventing or minimising loss of life, or illness or injury to humans or animals;
  - (c) preventing or minimising the loss of damage to property or environment;
  - (d) national defence or in the public interest; or
  - (e) otherwise prepare for, respond to or recover from a State of Disaster.

**9 Amendment of Section 34**

Section 34(4) is amended by:

- (a) deleting the word 'office' where it appears and substitute the word 'officer';
- (b) deleting the words '*ensure to*' where they appear.

**10 Amendment of Section 81**

Section 81 is deleted and substituted as follows:

**81 Offences**

- (1) A person commits an offence if he or she:

- (a) fails, without reasonable excuse, to comply with a direction given by the Minister, National Controller or an authorised officer;
  - (b) obstructs, hinders or in any way interferes with a person engaged to carry out any duties or responsibilities in an emergency activity;
  - (c) impersonates an authorised officer;
  - (d) damages any equipment, material, vehicle, building or such other property used for the purposes of an emergency activity;
  - (e) utters, records, livestreams, publishes, posts or messages any false or misleading information relating to a disaster, by means of social or mass media or any other electronic or digital form;
  - (f) utters, records, livestreams, publishes, posts or messages inaccurately or distorts public information disseminated by the Government or a public officer by means of any electronic device, social or mass media or any other electronic or digital form; or
  - (g) utters, records, livestreams or publishes any information contained in paragraphs (e) and (f) which is likely to cause fear and disorder to other persons.
- (2) For the purposes of the offences in subsections 1(e) and (f), it does not matter, whether there is or is likely to be any person, who will be misled by the information.
- (3) A police officer may carry out any investigation or arrest a person or enter any property, without a warrant, for the contravention of any provisions of this Act.

**11 Amendment of Section 82**

Section 82 is deleted and substituted as follows:

**'82 Penalties**

- (1) A person found guilty of an offence under this Act or regulations, on conviction shall be liable to a fine not exceeding \$50,000.00 or a term of imprisonment not exceeding 5 years or to both.
- (2) The regulations may prescribe strict liability offences as fixed penalty offences and the respective penalties.

- (3) No action shall be taken against a person who is guilty of a fixed penalty offence and has paid the fixed penalty as required by the fixed penalty notice.

**12 Amendment of Section 83**

Section 83 is deleted and substituted as follows:

**'83 Failure to pay fixed penalty**

A person, who has been issued with a fixed penalty notice and fails to pay the fixed penalty as required by this Act shall be:

- (a) summoned to attend court;
- (b) in addition to the fixed penalty, liable to a fine not exceeding \$50,000.00 or a term of imprisonment not exceeding 5 years or to both; and
- (c) liable to pay a mandatory court cost of \$100.

**13 Amendment of Section 84**

Section 84 is amended as follows:

- (a) in subsection (1), by inserting the words 'Minister, Council,' immediately after the word 'Government';
- (b) inserting a new subsection (3) as follows:
  - '(3) No criminal or other form of prosecution shall be brought against any public service employee, authorised officer or person issuing or carrying out any directions in good faith for the purposes of an emergency activity.'

**14 Amendment of Section 86**

Section 86 is amended by:

- (a) deleting the figure '(1)' where it appears;
- (b) in paragraph (h) by deleting the full stop '.' and substituting with a semicolon ';';
- (c) inserting new paragraphs (i) and (j) as follows:
  - '(i) any laws that may be required as a matter of necessity to be made limiting any right or freedom of a person for the purposes of interest of defence, public safety, public order, public

morality, public health or other purposes beneficial to the community:

- (i) for a limited period of the existence of a disaster or the continuation of any declaration of a State of Disaster; or
  - (ii) for the purposes of disaster management, response or recovery; and
- (j) prescribe necessary powers, functions and duties to a person or entity for the purposes of disaster management, response or recovery.'