

EXECUTIVE SUMMARY

The Gambia has been plagued by a host of natural and manmade disasters over the last few years. There has, however, been a lack of a corresponding integrated disaster management policy and the relevant legal framework within which to operate effectively to tackle such disasters. Consequently, the United Nations Development Programme (UNDP) in The Gambia has commissioned consultancies for the development of a policy and legal framework by which disaster management in The Gambia can be handled. This paper deals with the latter part of that commissioning by providing the legal framework within which disasters can be prevented, prepared for, mitigated against, responded to, and recovered from, as well as establishing the structures within which these objectives can be achieved.

The paper itself is divided into two Parts:-

- Part A - deals with the draft National Disaster Management Bill 2008, and
- Part B - deals with draft supplementary provisions relating to village disaster management committees, village disaster coordinators and village disaster plans which have not been included in the main draft Bill, but which have been provided in the event that the sponsors of this consultancy decide to extend such mechanisms to the village level.

Scope of assignment

In accordance with the part of the Consultant's terms of reference, the draft National Disaster Management Bill, 2008 ("2008 Bill") has been drafted after extensive research into literature of disaster management laws and regulations of various jurisdictions throughout the world. The draft thus derives its foundation from a variety of sources on disaster management. The draft also benefits from legislation that is of useful utility in the drafting of some provisions of the 2008 Bill. In addition, the draft also benefits from the insights of a legislative draftsman's perspective on what could and should be in a disaster management law for The Gambia.

Two of the main tools relied upon by the Consultant which proved to be of crucial guidance into what the sponsors sought to have contained in the Bill, are the Draft National Disaster Management Policy of July 2007 and a draft National Disaster Management Legislation of December 2006, both documents provided by the UNDP. Extensive references were made to these two documents, and as much as possible the draft 2008 Bill presented in this paper reflects these documents, as well as relevant provisions of the laws and regulations of other countries, that having a bearing to the Gambia's own situation.

National Disaster Management Bill, 2008

The draft National Disaster Management Bill, 2008, sets up a formal structure for integrated and co-ordinated disaster management for The Gambia which focuses on

prevention, preparedness, response, mitigation and recovery in relation to disasters or emergency situations as well as the management of the effects from such events.

The 2008 Bill is composed of several parts and sections thereof.

Part I of the Bill deals with preliminary provisions of the Act concerning the title of the Bill, definitions and limitations of application of the Act.

Part II deals with the disaster management organisation i.e structure. The Bill establishes a National Disaster Management Council, as well as regional and district disaster management committees in all the regions and districts throughout The Gambia to deal with disasters at the respective levels. Also established under the Bill is the office of the National Disaster Coordinator to assist the National Disaster Management Council in the daily administrative affairs of disaster management in the country. Similarly, there are both regional and district disaster coordinators for all the regions and districts throughout the country to assist the regional and district disaster management committees respectively in the daily administrative affairs of disaster management in the regions and districts which they oversee. To advice coordinators, technical advisory committees may be constituted in order to provide relevant advice by professionals in their area of specialisation aimed at managing disasters in The Gambia.

Part III concerns disaster management plans. For disaster management to be effectively integrated and co-ordinated, planning is necessary, and as such, under the Bill, disaster management plans are to be developed at the national, regional and district levels. Also under this ambit, disaster management plans are also to be developed by Government Departments of State.

Part IV concerns government disaster management measures. Under this Part, Government is empowered to take a host of measures for the purpose of managing disasters. Furthermore, every Department of State in The Gambia is also to create measures to cater for disasters and mitigation management.

Part V relates to evacuation. In any disaster, there may be occasion in which the Government may find it necessary to evacuate the inhabitants of any locality. In this regard, the Bill empowers the National Coordinator to assess the potential for loss of life and injury to persons where there is a threat of a hazard or where a disaster has occurred in The Gambia or in a part of The Gambia, who shall then consult with the Council, as to ordering an evacuation of inhabitants of any part of The Gambia. If after a consultation pursuant to section 59 of the Bill, an evacuation is deemed necessary, the Secretary of State responsible for the interior, acting on the advice of the National Coordinator, issues a notice of evacuation for the affected area.

PART VI deals with government assistance during state of disaster. In the area of government assistance during a state of disaster, the Bill empowers the government to take such actions as are necessary to render such assistance be it in the form of rescue operations, requisitioning of resources, provisions and vehicles and directing media houses to transmit communications carrying any warning or advisories regarding any threatening disaster situation or disaster etc.

Part VII of the Bill focuses on the declaration of a State Of Emergency by His Excellency the President of the Republic. In any major national disaster, there would be the need to maintain not only law and order, but also to ensure that the extraordinary powers are vested in Government to overcome such emergency. As such, there are specific provisions in the Bill for the declaration of a state of emergency to cope with the calamity of a national disaster. By virtue of such declaration, the National disaster Coordinator and other government officials are automatically vested with certain powers under the Bill to take certain actions and actions to address the disaster which resulted in the declaration.

Part VIII provides for compensation and other forms of relief. Whenever there is a disaster or where Government requisitions resources or orders the demolition of property for the purpose of avoiding hazards in pursuit of disaster management, as well as providing relief to victims of disaster, there is the need for compensation and other relief mechanisms. In this light, this Part of the Bill lays down the rules as to eligibility for compensation, the payment of compensation and appeals by property owners who suffer loss as a result of Government action during a time of disaster. There is also provision of other forms of financial relief that may be made available to the victims of disaster, which however, is not to be considered as compensation under the Bill.

Part VIII concerns Finance, Accounts And Audit. This part deals with the funding mechanisms for: (a) disasters, (b) the Agency, and (c) other regional and district committees. It also deals with the way and manner such funds can be utilised by these bodies for the purposes of disaster management. Also under this Part, disaster funds are sets up at the national, regional and district levels. Furthermore, this Part also exempts from taxation the monies paid into such funds for the purpose of disaster management. The Bills also empowers the auditor general to audit the accounts of the national disaster fund.

Part IX deals with Offences and Penalties. Several types of actions are considered to be offences under the Bill for which appropriate penalties can be imposed either in the form of incarnation or payment of fines, or both.

Finally, Part X provides for miscellaneous provisions of the Bill which covers such issues as immunity from suit of officials acting under the Bill, and the also permits the making of regulations and by-laws to better carry into the effect the provisions of the Bill.

PART A

**NATIONAL DISASTER MANAGEMENT
BILL, 2008**

NATIONAL DISASTER MANAGEMENT BILL, 2008

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NATIONAL DISASTER MANAGEMENT BILL, 2008

A BILL ENTITLED

AN ACT to provide for an integrated and co-ordinated disaster management that focuses prevention, preparedness, response, mitigation and recovery from disasters or emergency situations as well as the management of the effects from such events; to establish a National Disaster Management Council; to establish a National Disaster Management Agency; to establish regional and district disaster management committees and coordinating offices and for matters connected therewith.

ENACTED by the President and the National Assembly.

PART I - PRELIMINARY

- Short title 1. (1) This Act may be cited as National Disaster Management Act, 2008.
- (2) The Act shall come into force on such date as the President may, by notification in the Gazette, appoint.
- Definitions 2. In this Act, unless the context otherwise requires –
- “Act” means the National Disaster Management Act, 2008;
- “affected area” means an area or part of the country affected by a disaster;
- “Agency” means the National Disaster Management Agency;
- “Council” means the National Disaster Management Council;
- “functions” includes powers and duties;
- “Government agency” means:
- (a) a Department of State or department of the government; or
- (b) any body constituted for a public purpose by or under any Act of the National Assembly;
- (c) any member or officer of such a body stated in paragraph (a) or (b); and

- (d) any person in the service of the Government upon whom any function, power, duty or responsibility is conferred by or under any Act;

“disaster” means a progressive or sudden, widespread or localized actual or imminent occurrence of a natural or human-caused occurrence, or by accident or negligence which results or can result [in substantial loss of life or human suffering] or damage to, and destruction of infrastructure or, property, or damage to or degradation of environment arising from, but not limited to –

- (a) a flood or tidal waves,
- (b) a drought,
- (c) an air disaster,
- (d) a maritime disaster,
- (e) a major civil accident (such as a major fire or bush fire or explosion),
- (f) man-made disasters such as, but not limited to, industrial accidents, oil spillage, mass movement of persons who are internally displaced persons or refugees or
- (g) a pest and insect infestation
- (h) a plague or epidemic,
- (i) disease disasters; or
- (j) any other similar natural or manmade event; and

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

“disaster area” means the area in which a state of emergency is declared and includes a part of a disaster area;

“disaster management” means the continuous and integrated multi-disciplinary and multi-sectoral process of planning, organising, coordinating and implementing measures which are necessary or expedient for: -

- (i) prevention of danger or threat of any disaster;
- (ii) mitigation or reduction of risk of any disaster or its severity or consequences;
- (iii) capacity-building;
- (iv) preparedness to deal with any disaster;
- (v) a rapid and effective response to any threatening disaster situation or disaster;
- (vi) assessing the severity or magnitude of effects of any disaster;
- (vii) evacuation, rescue and relief;
- (viii) post-disaster recovery, rehabilitation and reconstruction;

“disaster operations” means activities undertaken before, during or after an event happens to help reduce loss of human life, illness or injury to humans, property loss or damage, or damage to the environment, including, but not limited to, activities to mitigate the adverse effects of a disaster;

“disaster worker” mean a person who assist in disaster operations and includes volunteers;

“District Committee” means the District Disaster Management Committee established in each district of each region within The Gambia;

“District Plan” means the plan prepared and formulated under this Act in respect of disaster management in a district of The Gambia;

“local government authority” has the meaning given to it under the Local Government Act 2002;

“mitigation” means measures aimed at reducing the risk, impact or effects of a disaster or threatening disaster situation;

“*mutatis mutandis*” is a Latin term meaning things being changed which are necessary to be changed in order to reflect the reference in another context;

“National Disaster Plan” means the plan prepared and formulated under this Act in respect of disaster management for The Gambia;

“non-government agency” means:

- (a) a voluntary organisation or any other private body within The Gambia;
- (b) an international body or agency; or
- (c) a foreign government or a body or agency of a foreign government;

“National Coordinator” means the National Coordinator of the National Disaster Management Agency;

“preparation” in relation to a disaster includes arrangements or plans to deal with a disaster or the effects of a disaster;

“prevention” in relation to a disaster includes the identification of hazards, the assessment of threats to life and property and the taking of measures to reduce potential loss to life or property;

“recovery” in relation to a disaster includes the process of returning an affected community to its proper level of functioning after a disaster;

“Regional Committee” means the Regional Disaster Management Committee established under this Act in each region in The Gambia;

“Regional Plan” means the plan prepared and formulated under this Act in respect of disaster management in a region in The Gambia

“response” in relation to a disaster includes the process of combating a disaster and of providing immediate relief for people affected by a disaster;

“TAG” means the Technical Advisory Group;

“volunteer” means a person who:-

- (a) assists a government or non-government agency in response to a disaster; or
- (b) assists, on his or her own initiative, in response to a disaster in circumstances in which the assistance was reasonably given.

Limitations of application of Act

3. Unless otherwise specifically authorised by the Office of the President, this Act does not:-

- (a) authorise the taking of measures to control civil disorders or to bring to an end an industrial dispute, riot or other civil disturbance;
- (b) authorise actions to end a strike or lockout; or
- (c) cover circumstances arising from combat against an enemy.

PART II - DISASTER MANAGEMENT ORGANISATION

National Disaster Management Council

Establishment of Council

4. There is hereby established a *National Disaster Management Council* referred to in this Act as the “Council”.

Functions of Council

5. (1) The functions of the Council are:-

- (a) to advise the Government on all matters relating to disaster preparedness, response, mitigation and recovery, and the preparation and formulation of a National Disaster Plan, including the coordination of activities of Government and non-Government agencies;

- (b) to develop strategies and policies for the prevention of, preparation for, response to, mitigation of and recovery from disasters;
- (c) to ensure that the strategies and policies it develops are implemented by the National Disaster Management Agency, other government agencies and non-government agencies;
- (d) to advise the President on the need for aid to counter the effects of a disaster and on any agreement proposed to be entered into by the Government in relation to such aid;
- (e) to advise the President on the declaration of a state of emergency; and
- (f) subject to the approval of the Inspector General of Police and the Chief of Defence Staff, to determine the number of members of the Gambia Police Force and Gambia Armed Force respectively are to be deployed in the prevention of, preparation for, response to, mitigation of and recovery from a particular disaster.

(2) The Chairperson of the Council shall, in the case of emergency, has the authority to exercise all or any of the powers of the Council but the exercise of such powers is subject to *ex post facto* ratification by the majority of the all Council members.

Composition of Council

6. (1) The Council shall comprise of the following members:-
- (a) the Vice President as Chairperson;
 - (b) the Secretary of State responsible for the Interior
 - (c) the Secretary of State responsible for Defence
 - (d) the Secretary of State responsible for Finance
 - (e) the Secretary of State responsible for Health
 - (f) the Secretary of State responsible for Agriculture
 - (g) the Secretary of State responsible for Natural Resources
 - (h) the Secretary of State responsible for the Environment;
 - (i) the Secretary of State responsible for Local Government;
 - (j) the Secretary of State responsible for Education;
 - (k) the Secretary of State responsible for Works;
 - (l) the Solicitor General; and
 - (m) the National Coordinator who shall act as secretary to the Council.

(2) Any member of the Council may be represented at a meeting of the

Council by his or her Permanent Secretary or delegate who shall have the full powers of the member whom the Permanent Secretary or delegate is representing.

(3) The Council may co-opt on an ad hoc basis depending on the scale of the disaster or the expertise required to respond to the disaster, any Secretary of State or Permanent Secretary of any Department of State to attend and to participate at a meeting but such person shall not be entitled to vote upon any issue or question.

Vacancies or defects membership of Council

7. An act, decision or meeting of the Council is not invalid by reason of a vacancy in its membership or a defect in the appointment of a member.

Meetings and Procedures of Council

8. (1) The Council may meet and transact business at such times and in such places as determined by the Chairperson, and in any case shall meet at least twice in a calendar year.

(2) The rules of procedure of the Council shall be determined by the Chairperson

(3) At a meeting of the Council –

(a) the Chairperson and any four other members of the Council, including to the Secretary to the Council, shall constitute a quorum for meetings of the Committee.

(b) the Chairperson shall preside at all meetings at which the Chairperson is present; and

(c) in the absence of the Chairperson, the Vice-Chairperson, previously selected by the Chairperson, shall preside and where both the Chairperson and Vice-Chairperson are absent, the members present shall elect one of their number to act as Chairperson for the purposes of that meeting.

(4) The Chairperson may, at any time, and shall, at the written request of not less than four members of the Council summon a special meeting of the Council.

(5) Subject to subsection (6), a decision of the Council shall be determined by a majority vote of those present and voting at a meeting. Each member present at a meeting of the Council has one vote on any matter arising for decision but where the votes are equally divided, the member presiding as the chairperson at the meeting may exercise a

casting vote.

(6) A proposed resolution of the Council becomes a valid decision of the Council despite the fact that it is not voted on at a meeting of the Council if-

(a) notice of the proposed resolution is given to all members of the Council in accordance with procedures determined by Council; and

(b) a majority of the members express concurrence in the proposed resolution by letter, telegram, telex, facsimile transmission or other written communication setting out the terms of the resolution.

(7) The Council shall cause full minutes of its meetings to be kept in such manner as may be determined by it.

Committees of Council

9. The Council may appoint such committees for any general or special purpose as it considers necessary.

Council annual Activity Report

10. The Council shall, as soon as possible after the end of each calendar year, prepare and present to the President a report on its activities for the previous year ending 31 December.

National Disaster Management Agency

Establishment of Agency

11. (1) There is hereby established a National Disaster Management Agency, referred to in this Act as the "Agency", as an office in the public service under the Office of the Vice-President.

(2) The Agency shall act as the central entity for disaster management in The Gambia.

Functions of Agency

12. (1) The functions of the Agency are:-

(a) to carry out disaster management and other responsibilities and to deal with routine disaster-related affairs at national, regional and district levels.

(b) to lead the country's efforts to prepare for, respond to, recover from, and mitigate the risks of natural and man-made disasters, including catastrophic incidents; and to warn the public of an approaching disaster and predict its effects on the country;

(c) to act as the central planning, coordinating and monitoring

institution for disaster management and post-disaster recovery reconstruction in The Gambia;

- (d) to advise and brief the Council from time to time on progress and major problems in disaster management, and if appeal for international assistance is required;
- (e) in the case of a disaster, to advise the Council of all the circumstances and on the advisability of recommending to the President the declaration of a State of Emergency.

- (f) to prepare, update, maintain, implement and monitor the National Disaster Plan and the disaster plans prepared by the Departments of State;
- (g) to formulate, monitor, coordinate and give directions regarding disaster preparedness, mitigation and response strategies and action plans and measures to be taken by different Departments of State or Government agencies, local government authorities, non-governmental organisations and donor agencies in response to any threatening disaster situation or disaster;
- (h) to lay down guidelines to be followed by the Regional Committees and District Committees in drawing up the Regional Disaster Plans and District Disaster Plans, as well as to lay down guidelines to be followed by the different Departments of State and Government agencies for the purpose of integrating the measures for prevention of disaster or the mitigation of its effects in their development plans and projects;
- (i) to approve the disaster plans prepared by the Departments of State, Regional Committees and District Committees;
- (j) to foster public awareness and education at national, regional district and community levels of the effects of natural phenomena and measures which can be taken to prevent or mitigate them; and arrange external training for the staff of government agencies, non-governmental organisations and other local government agencies which are directly involved with disaster management,
- (k) to provide technical assistance or giving advice on disaster management to Regional Committees and District Committees for carrying out their functions under this Act;
- (l) to coordinate requests for aid, and to control and direct the allocation of aid provided by government and non-government agencies; and to ensure that aid for disasters is used for the purpose for which it was provided; and to receive, accept and

account for any donations that may be given to the Agency to carry out disaster relief, and to recommend provision of funds for the purpose of mitigation and to examine and where necessary approve all grants from national funds for emergency relief; and

- (m) to establish and maintain relations with international relief organisations in order to facilitate accessing of their resources in the event of a disaster;
- (n) to mobilise and organise technical assistance from interested national and international bodies to assist in the development of disaster response capabilities of the Government;
- (o) to provide a clearing house for relevant information and intelligence in all matters relating to disasters including current research being undertaken in all related institutions; and
- (p) to perform such other functions as the Council may require the Agency to perform.

Powers and functions of Council in a disaster situation

13. For the purpose of assisting, protecting or providing relief to the any part of The Gambia, in response to any threatening disaster situation or disaster, the Council may-

- (a) give directions for the release and use of resources available with any Department of State or government agency and any local government authority in any region or district in The Gambia;
- (b) control and restrict vehicular traffic to, from and within, a vulnerable or affected area;
- (c) control and restrict the entry of any person into, his movement within and departure from, a vulnerable or affected area;
- (d) remove debris, conduct search and carry out rescue operations;
- (e) provide shelter, food, drinking water and essential provisions, healthcare and services;
- (f) establish emergency communication systems in the affected area;
- (g) make arrangements for the disposal of the unclaimed corpses;
- (h) direct Department of State, any government agency or any

authority or body of the Government at the national, regional or district level to take such measures as are necessary in the Council's opinion;

(i) require experts and consultants in the relevant fields to advise and assist as it may deem necessary;

(j) procure exclusive or preferential use of amenities from any authority or person;

(k) construct temporary bridges or other necessary structures and demolish structures which may be hazardous to the public or aggravate the effects of the disaster;

(l) ensure that the non-governmental organisations carry out their activities in an equitable and non-discriminatory manner;

(m) by order require any officer or any Department of State or government agency at the national, regional or district level or any local government authority to take such measures for the prevention or mitigation of disaster or to effectively respond to it, as may be necessary, and such officer or department shall be bound to carry out such order; and

(n) take such other steps as may be required or warranted to be taken in such a situation.

Office of
National
Coordinator

14. (1) There is hereby established the office of National Disaster Management Coordinator, referred to in this Act as the "National Coordinator", who is the administrative head of the Agency.

(2) The National Coordinator shall be appointed by the Public Service Commission, under such terms and conditions of appointment as determined by the Public Service Commission.

Functions of
National
Coordinator.

15. The National Coordinator shall perform the following functions:-

(a) organise, coordinate and supervise all of the activities undertaken by the Agency;

(b) manage the Agency, and ensure that the Agency performs its functions properly, efficiently and effectively;

(c) coordinate the general policy of the Government relating to the

prevention of, preparedness for, response to, mitigation of and recovery from disasters in The Gambia;

- (d) ensure that clear directions are given to all government and non-government agencies responsible for taking action in relation to disasters;
- (e) develop and recommend to the Council national policies to foster and promote the prevention of, preparedness for, response to, mitigation of and recovery from disasters in The Gambia;
- (f) conduct programmes of public information and education on the preparedness for, response to, mitigation of and recovery from disasters;
- (g) liaise with persons and organisations within and outside The Gambia for the purpose of exchanging information and facilitating the harmonisation of the policies of such persons and organisations with those of the Government of The Gambia relating to the prevention of, preparedness for, response to, mitigation of and recovery from emergencies and disasters in The Gambia;
- (h) provide technical advice on draft regulations, whether under this Act or any other legislation, relating to the prevention of, preparedness for, response to, mitigation of and recovery from emergencies and disasters in The Gambia;
- (i) supervise the national state of preparedness for disasters and to report on same to the Council;
- (j) assign responsibilities for disaster related activities to government agencies, non-governmental agencies and other interested groups;
- (k) coordinate relief actions and collate national relief requirements;
- (l) lay down guidelines for the preparation and format of Regional Plans, District Plans and Departmental Plans;
- (m) examine and determine when necessary to approve grants from national funds for emergency relief;
- (n) provide assistance to the affected areas for-
 - (i) carrying out rescue and relief operations in the affected

area;

(iii) assessing the damage from any disaster;

(ii) carrying out rehabilitation and reconstruction;

- (o) make available its resources to the Regional Coordinator for the purposes of responding promptly and effectively to any threatening disaster situation or disaster, including measures for-
- (i) providing emergency communication in a vulnerable or affected area;
 - (ii) transporting personnel and relief goods to and from the affected area;
 - (iii) providing evacuation, rescue, temporary shelter or other immediate relief;
 - (iv) setting up temporary bridges, jetties and landing places;
 - (v) providing, drinking water, essential provisions, healthcare, and services in an affected area;
- (p) foster public awareness of the effects of disasters, and to determine measures which can be taken to prevent or mitigate them;
- (q) advise the Council in the event of a disaster, and to keep them apprised of all developments;
- (r) advise the Council if an appeal for international assistance is required; and
- (s) advise the Council as to whether a State of Emergency should be declared by the President of the Republic.

Council directions
to National
Coordinator

16. The National Coordinator shall be subject to the directions of the Council in relation to the policy to be followed in the exercise of the powers conferred and the duties imposed on the National Coordinator by or under this Act on any matter that affects the public interests of The Gambia with regards to disaster relief, and the National Coordinator shall give effect to all such directions.

Other staff
of Agency

17. (1) The Agency is to have such staff as are necessary for the Agency to perform its functions.

(2) Staff of the Agency are to be:-

(a) appointed by the Public Service Commission;

(b) seconded or transferred to the Agency by Departments of State, departments of government or other government agencies subject to the approval of the Personnel Management Office of the Government; or

(c) provided to the Agency by non-government agencies and funded by those agencies provided that the Government first approves of such provision of personnel to the Agency.

(3) Where the Government requests for the removal of a person that is provided to the Agency by a non-government agency, the non-government agency shall effect such removal within 3 days of being so informed by the Government.

(4) The salaries and any other remuneration of civil servants who work for the Agency shall be set by the Public Service Commission.

Requisition by
the National
Coordinator

18. The National Coordinator may, by order, require any officer or any department at the regional, district or village level or any local government authority to take such measures for the prevention or mitigation of disaster or to effectively respond to it, as may be necessary, and such officer or department shall be bound to carry out such order.

Agency
Activity
Reports

19. (1) The National Coordinator shall prepare and submit to the Vice-President bi-annual reports on the activities of the Agency.

(2) A bi-annual reports shall be in such form as may be prescribed by the Council, and shall give a true and full account of the Agency's activities during the previous half year, and a copy thereof shall be forwarded to the Vice-President.

(3) The National Coordinator shall provide the Council with any additional information that the Council may request for.

Establishment of
Technical
Advisory
Group
("TAG")

20. (1) The Council shall set up an advisory body to be known as the Technical Advisory Group, referred to in this Act as the "TAG", consisting of experts in various fields who can assist in disaster management at the national, regional, district or village levels, to make recommendations on different aspects of disaster management.

(2) The TAG shall provide advice to the Agency on disaster management, which advice may be relayed by the Agency to the Council where necessary or appropriate.

(3) The Chairperson of the Council shall appoint the Chairperson of the

TAG, and the procedures, meeting and voting of the TAG shall be *mutatus mutandis* as those of the Council.

Co-opted members of TAG

21. (1) The TAG may, in relation to a matter before it or to a particular disaster, co-opt–

- (a) any government departmental head or officer; or
 - (b) any official of a government agency, or
 - (c) any official of a non-government agency,
- as advise the TAG.

(2) A person co-opted under Subsection (1) may take part in deliberations but shall not vote on any questions before the TAG.

(3). A co-opted member's period of service with the TAG shall terminate as soon as the purpose for which he or she is co-opted is no longer required by the TAG.

Regional Disaster Management Committee

Establishment of Regional Disaster Management Committee

22. (1) Every region in The Gambia shall establish a Regional Disaster Management Committee, referred to in this Act as the "Regional Committee" under such name as reflects the region for which it is established.

(2) The Regional Committee shall have the responsibility for implementing both the National Disaster Plan and Regional Plan and act as the coordinating and monitoring body for management of disasters for its region.

(3) The Council and the Agency shall have overriding powers over the Regional Committee on any matter relating to disaster management and disaster operations in any region in The Gambia.

Powers and functions of Regional Committee

23. (1) A Regional Committee may-

(a) lay down the disaster management policy and plans for disaster management in its region;

(b) lay down guidelines to be followed by the local government departments within the region for the purposes of integration of measures for prevention of disasters and mitigation in their development plans and projects and provide necessary technical assistance therefor;

(c) review the measures being taken for mitigation, capacity building and preparedness by the local government departments

within the region and issue such guidelines as may be necessary;
and

(d) recommend to the Agency the provision of funds for mitigation and preparedness measures in the region; and

(e) examine the vulnerability of different parts of the region to different forms of disasters and specify measures to be taken for their prevention or mitigation;

(2) The Chairperson of the Regional Committee shall, in the case of emergency, have power to exercise all or any of the powers of the Regional Committee but the exercise of such powers shall be subject to ratification of the Regional Committee.

Powers and
functions of
Regional
Committee in a
disaster situation

24. For the purpose of assisting, protecting or providing relief to the region, in response to any threatening disaster situation or disaster within its region, a Regional Committee may-

(a) give directions for the release and use of resources available;

(b) control and restrict vehicular traffic to, from and within, the vulnerable or affected area;

(c) control and restrict the entry of any person into, his movement within and departure from, a vulnerable or affected area;

(d) remove debris, conduct search and carry out rescue operations;

(e) provide shelter, food, drinking water and essential provisions, healthcare and services;

(g) make arrangements for the disposal of the unclaimed corpses;

(h) recommend to any government agency at the regional level to take such measures as are necessary in its opinion;

(j) procure exclusive or preferential use of amenities from any authority or person;

(k) construct temporary bridges or other necessary structures and demolish structures which may be hazardous to public or aggravate the effects of the disaster;

(l) ensure that the non-governmental organisations carry out their

activities in an equitable and non-discriminatory manner;

(m) by order require any officer or any Department at the district level or any local government authority to take such measures for the prevention or mitigation of disaster or to effectively respond to it, as may be necessary, and such officer or department shall be bound to carry out such order; and

(n) take such other steps as may be required or warranted to be taken in such a situation.

Composition of Regional Committee	<p>25. (1) A Regional Committee shall consist of a Chairperson who shall be the Mayor or Governor of the Region as the case may be, and such number of other members, at the discretion of the Chairperson, as the Chairperson shall select, including the Regional Coordinator <i>ex officio</i> who shall act as secretary to the Regional Committee.</p> <p>(2) The Chairperson of the Regional Committee may designate one of the members selected under sub-section (1) to be the Vice-Chairperson of the Regional Committee.</p>
Procedures of Regional Committee	<p>26. Each Regional Committee's procedures, meetings and voting shall be <i>mutatus mutandis</i> as that of the Council.</p>
Meetings of Regional Committee	<p>27. (1) The Regional Committee may meet and transact business at such times and in such places as determined by the Chairperson, and in any case shall meet at least twice in a calendar year.</p> <p>(2) The Regional Committee shall cause full minutes of its meetings to be kept in such manner as may be determined by it.</p>
Appointment of other staff of Regional Committee	<p>28. The Regional Committee shall be assisted by such staff of the relevant Governor's office for the region as assigned by the Governor's.</p>
Composition of Regional Technical Advisory Group	<p>29. A Regional Committee may constitute an advisory committee to be known as the <i>Regional Technical Advisory Group</i>, referred to in this Act as the "RTAG", under such name as reflects the region for which it is established, which shall consist of experts in various fields who can advice the Regional Committee in disaster management at the regional or district level and make recommendations to the Regional Committee on different aspects of disaster management.</p>
Guidelines for	<p>30. The Regional Committee shall lay down detailed guidelines for</p>

minimum standard of relief by Regional Committee

providing standards of relief to persons affected by disaster in the region: Provided that such standards shall in no case be less than the minimum standards in the guidelines laid down by the National Disaster Management Agency in this regard.

Regional Disaster Management Coordinator

Establishment of Regional Coordinators

31. (1) There shall be *Regional Disaster Management Coordinator* for each region throughout The Gambia, referred to in this Act as the "Regional Coordinator", as offices in the public service within the Office of the Secretary of State responsible for Local Government.

(2) The Regional Coordinator shall be appointed by the Secretary of State for Local Government, on the recommendation of the National Disaster Management Agency.

(3) The Regional Coordinator for each region shall act as the central entity and administrative head for coordinating disaster management within the region.

Functions of regional coordinators

32. (1) Each Regional Coordinator is responsible for disaster management within their region of jurisdiction and carry out functions in relation thereto.

(2) Without prejudice to subsection (1), a Regional Coordinator shall perform the following functions within his or her region:

- (a) to manage the daily affairs of the Regional Coordinator's office
- (b) to coordinate the general policy of the Regional Committee relating to the prevention of, preparedness for, response to, mitigation of and recovery from disasters within the region.
- (c) develop and recommend to the Regional Committee a regional policy on fostering and promoting the prevention of, preparedness for, response to, mitigation of and recovery from disasters within the region;
- (d) lay down guidelines for the preparation and format of Regional Plans
- (e) examine and determine when necessary to approve grants from a regional disaster fund for emergency relief
- (f) foster public awareness of the effects of disasters, and to determine measures which can be taken to prevent or mitigate them;

- (g) monitor the implementation of disaster plans prepared by the and District Committees within its region;
- (h) coordinate and monitor the implementation of the National Plan and the Regional Plan;
- (i) (h) monitor the implementation of the guidelines laid down by the Regional Committee for integrating of measures for prevention of disasters and mitigation by the departments in their development plans and projects in the region;
- (j) evaluate preparedness at all governmental or non-governmental levels in the region to respond to any threatening disaster situation or disaster and give directions, where necessary, for enhancing such preparedness;
- (k) coordinate response in the event of any threatening disaster situation or disaster in the region;
- (l) promote general education, awareness and community training in regard to the forms of disasters to which different parts of the region are vulnerable and the measures that may be taken by such community to prevent the disaster, mitigate and respond to such disaster;
- (m) provide necessary technical assistance or give advice to District Committees and other local authorities on disaster management;
- (n) examine the construction, in any local area in the region and, if it is of the opinion that the standards laid for such construction for the prevention of disaster is not being or has not been followed, may direct the District Committee to take such action as may be necessary to secure compliance of such standards;
- (o) provide information to the National Disaster Management Agency relating to different aspects of disaster management in the region;
- (p) lay down, review and update the Regional Plan for its region and ensure that the District Plans are prepared, reviewed and updated;
- (q) For the purpose of, assisting and protecting the community affected by disaster or providing relief to such community or, preventing or combating disruption or dealing with the effects of any threatening disaster situation within the region concerned, a Regional Coordinator may-

(i) control and restrict, vehicular traffic to, from or within, the vulnerable or affected area;

(ii) control and restrict the entry of any person into, his movement within and departure from, a vulnerable or affected area;

(iii) remove debris, conduct search and carry out rescue operations;

(iv) provide shelter, food, drinking water, essential provisions, healthcare and services in accordance with the standards laid down by the Agency and Regional Committee;

(v) give direction to any District Committee or other Committee, within the local limits of the Regional Committee to take such measure or steps for rescue, evacuation or providing immediate relief saving lives or property, as may be necessary in its opinion;

(vi) require any body or Committee or person in charge of any relevant resources to make available the resources for the purposes of emergency response, rescue and relief;

(vii) procure exclusive or preferential use of amenities from any Committee or person as and when required;

(viii) ensure that non-governmental organisations carry out their activities in an equitable and non-discriminatory manner;

(ix) disseminate information to public to deal with any threatening disaster situation or disaster;

(x) take such steps as the Government may direct in this regard or take such other steps as are required or warranted by the form of any threatening disaster situation or disaster; and

(r) perform such other functions related to disaster management within the region as the Regional Committee considers necessary.

Staff of offices
of the regional

33. The Regional Coordinator shall be assisted by such staff of the

coordinators relevant Governor's office for the region as assigned by the Governor.

Requisition by the Regional Coordinator 34. A Regional Coordinator may, by order, require any officer or any department at the regional, district or village level or any local government authority to take such measures for the prevention or mitigation of disaster or to effectively respond to it, as may be necessary, and such officer or department shall be bound to carry out such order.

Regional Coordinators relationship with National Coordinator 35. (1) In the event of a disaster within a region, the National Coordinator may initiate or take over disaster management and disaster operations in the affected area in any region from the Regional Coordinator and the Regional Coordinator shall coordinate, cooperate and act on the advice and instructions of the National Coordinator.

(2) A Regional Coordinator shall provide such information as is requested by the National Coordinator without delay;

(3) A Regional Coordinator shall provide bi-annual reports of his or her activities to the National Coordinator.

District Disaster Management Committee

Establishment of District Committee 36. (1) Every district in every region in The Gambia shall establish a *District Disaster Management Committee* referred to in this Act as the "District Committee", under such name as reflects the district for which it is established.

Composition of District Disaster Management Committee 37. (1) A District Committee shall consist of the District Chief as the Chairperson and such number of other members, at the discretion of the Chairperson, as the Chairperson shall select, which shall include the District Coordinator *ex officio*, who shall act as secretary to the District Committee.

(2) The Secretary of State for Local Government shall appoint an officer to be the District Coordinator to exercise such powers and perform such functions as may be delegated to him by the District Committee.

Powers of Chairperson of District Committee 38. (1) The Chairperson of the District Committee shall, in addition to presiding over its meetings shall exercise and discharge such powers and functions of the District Committee as the District Committee may delegate to him.

(2) The Chairperson of the District Committee shall, in the case of an

emergency, have power to exercise all or any of the powers of the District Committee but the exercise of such powers shall be subject to *ex post facto* ratification of the District Committee.

Meetings and procedures 39. (1) The District Committee shall meet as and when necessary and at such time and place as the Chairperson may think fit.

(2) Each District Committee's procedures, meetings and voting shall be *mutatus mutandis* as that of the Council.

Composition of advisory and other committees 40. (1) The District Committee may, as and when it considers necessary, constitute one or more advisory committees and other committees for the efficient discharge of its functions.

Appointment of staff of District Committee 41. A District Committee shall be assisted by such staff of District Chief as are assigned by the District Chief.

Powers and functions of District Committee 42. A District Committee's Powers and functions at the district level are *mutatus mutandis* as that of the Regional Committee, except:
(a) it cannot make any recommendation to the Council or Agency except through the Regional Coordinator; or
(b) it cannot conduct any matter that should be done at the regional disaster management level.

Powers and functions of District Committee in disaster situation 43. For the purpose of assisting, protecting or providing relief to the community, in response to any threatening disaster situation or disaster, a District Committee in relation to an event of any threatening disaster situation or disaster, shall have, *mutatus mutandis* the same powers as a Regional Committee in relation to its region of jurisdiction.

District Coordinators

Establishment of District Coordinators 44. (1) There shall be a *District Disaster Management Coordinator* for each district in a region throughout The Gambia, referred to in this Act as the "District Coordinator", under such name as reflects the district for which established, as offices within the Office of the Secretary of State responsible for Local Government.

(2) The District Coordinator shall be appointed by the Secretary of State responsible for Local Government, on the recommendation of the National Disaster Management Agency.

Functions of District coordinators 45. Each District Coordinator is responsible for disaster management within his or her district and shall perform such functions in relation to the district *mutatus mutandis* as the Regional Coordinator, except that the District Coordinator:-

- (a) cannot make any recommendation to the Council or Agency except through the Regional Coordinator; or
- (b) cannot conduct any matter that should be done at the regional disaster management level.

Staff of office of the District coordinator

46. A District Coordinator shall be assisted by such number of staff as the District Chief shall determine and select, who shall be paid such salary and allowances as District Chief determines subject to the prior approval of the Regional Committee.

Requisition by the District Coordinator

47. A District Coordinator may, by order, require any officer or any government agency at the district or village level to take such measures for the prevention or mitigation of disaster or to effectively respond to it, as may be necessary, and such officer or department shall be bound to carry out such order.

District Coordinators relationship with National Coordinator

48. (1) In the event of a disaster within a district, the National Coordinator or Regional Coordinator may initiate or take over a disaster operation and management of such disasters in the affected area, and the District Coordinator shall coordinate, cooperate and act on the advice and instructions of the National Coordinator or Regional Coordinator.

(2) The District Coordinators shall provide such information as is requested by the National Coordinator or Regional Coordinator without delay;

(3) The District Coordinators shall provide quarterly updates on their activities in the field of disaster management to the National Coordinator

PART III - DISASTER MANAGEMENT PLANS

National Disaster Management Plan

National Disaster Plan

49. (1) There shall be drawn up a plan for national disaster management for the whole of the country to be called the “*National Disaster Management Plan*” referred to in this Act as the “National Plan”, directed at the prevention of, preparedness for, response to, mitigation of and recovery from disasters in The Gambia.

(2) The National Plan shall be prepared by the Agency in consultation with the government agencies and non-government agencies with expertise in the field of disaster management for approval by the Council.

(3) Appropriate provisions shall be made by the Government for financing the measures to be carried out under the National Plan.

(4) Copies of the National Disaster Plan shall be made available to the Departments of State which shall draw up their own disaster management plans in accordance with the National Plan.

(5) The National Plan shall comprise the statements of the contingency arrangements and requirements, under the coordination of the Agency, to be followed by government agencies and non-government agencies.

(6) The National Plan shall include –

- (a) measures to be taken for the prevention of disasters and the mitigation of their effects;
- (b) measures to be taken for the integration of mitigation measures in the development plans;
- (c) measures to be taken for preparedness and capacity building to effectively respond to any threatening disaster situations or disaster;
- (d) roles and responsibilities of different Departments of State or respect of measures specified in clauses (a), (b) and (c).
- (e) make post-disaster reconstruction, rehabilitation and recovery plans;
- (f) procedures related to disaster prevention, preparedness for, response to, mitigation of and recovery from disasters by Departments of State, government agencies and non-government agencies,
- (g) procedures for informing the public in The Gambia and elsewhere of the existence of a threatened disaster or the existence of a disaster emergency; and
- (h) procedures to be followed during a threatened disaster alert or in the event or the aftermath of a disaster emergency for –
 - (i) safeguarding against fires and epidemics
 - (ii) the protection and restoration of communications, both nationally and internationally,
 - (iii) the provision of shelter for persons
 - (iv) cooperation with international organizations and

governments of countries outside The Gambia

(v) the evacuation of all the residents of any area when it is considered to be desirable in the event of a disaster emergency;

(vi) the requisitioning of private property when it is considered to be desirable in the event of a disaster emergency, including procedures for assessing and paying compensation in consequence thereof;

(vii) protecting life and property from the dangers of looting and riotous behaviour

(viii) accepting and facilitating the distribution of volunteer services and relief supplies,

Review Of
National Plan

50. The National Coordinator shall review the National Plan annually and make such amendments as are necessary to keep the National Plan up to date. Any periodic updates or amendments to the National Plan must be approved by the Council before such updates or amendments can take effect.

Department of State Disaster Plan

Disaster
management
plans of
Government
Departments

51. (1) Every Department of State shall-

(a) prepare a *Departmental Disaster Management Plan* referred to in this Act as the "Departmental Plan", specifying the following particulars, namely:-

(i) the measures to be taken by it for the prevention of, preparedness for, response to, mitigation of and recovery from disasters in accordance with the National Plan;

(ii) the specifications regarding integration of mitigation measures in its development plans in accordance with the guidelines of the Agency;

(iii) its roles and responsibilities in relation to preparedness and capacity-building to deal with any threatening disaster situation or disaster;

(iv) its roles and responsibilities in regard to promptly and

effectively responding to any threatening disaster situation or disaster;

(v) the present status of its preparedness to perform the roles and responsibilities specified in sub-clauses (iii) and (iv); and

(vi) the measures required to be taken in order to enable it to perform its responsibilities specified in sub-clauses (iii) and (iv);

(b) review and update annually its Departmental Plan;

(c) forward a copy of the Departmental Plan referred to in clause (a) or clause (b), as the case may be, to Agency for its approval.

(2) Every Department of State shall-

(a) while preparing its Departmental Plan under sub-section (1) (a), make provision for financing the activities specified therein;

(b) furnish a status report regarding the implementation of the Departmental Plan to the Agency, as and when required by it.

Review of
Departmental
Plan

52. The Permanent Secretary of each Department of State shall review their Departmental Plan annually and make such amendments as are necessary to keep the Departmental Plan up to date. Any periodic updates or amendments to the Departmental Plan must be approved by the Agency before such updates or amendments can take effect.

Regional Disaster Management Plan

Regional Plan

53. (1) There shall be a plan for disaster management for every region in The Gambia to be called the "*Regional Disaster Management Plan*" referred to in this Act as the "Regional Plan", preceded by the name of each respective region for which it applies.

(2) The Regional Plan shall be prepared by the Regional Coordinator, having regard to the guidelines laid down by the Agency, and after such consultation with local authorities, district authorities and the Regional Committee concerned.

(3) The Regional Plan prepared under subsection (2) shall be subject to approval by the Agency before it can be implemented.

(4) The Regional Plan shall include, -

(a) the vulnerability of different parts of the region to different forms of disasters;

(b) the measures to be adopted for the the prevention of, preparedness for, response to, mitigation of and recovery from disasters in the region;

(c) the manner in which the mitigation measures shall be integrated with the development plans and projects within the region;

(d) the capacity-building and preparedness measures to be taken within the region;

(5) Appropriate provisions shall be made by the Regional Committee for financing for the measures to be carried out under the Regional Plan.

Regional review
of plan

54. The Regional Coordinator shall review the Regional Plan annually and make such amendments as are necessary to keep the Regional Plan up to date. Any periodic updates or amendments to the plan must be approved both by the Regional Committee and the Agency before such updates or amendments can take effect.

District Disaster Management Plan

District Plan

55. (1) Every district in The Gambia shall prepare and formulate a plan for disaster management to be known as the *District Disaster Management Plan* referred to in this Act as the "District Plan", which shall be preceded by such name as reflects the district for which it is established.

(2) The District Plan shall be prepared by the District Coordinator, subject to approval by both the Regional Committee and the Agency.

(3) The District Plan shall include-

(a) the areas in the district vulnerable to different forms of disasters;

(b) the measures to be taken, for the prevention of, preparedness for, response to, mitigation of and recovery from disasters at the district level;

- (c) the capacity-building and preparedness measures required to be taken by the Departments of the Government at the district level and the local authorities in the district to respond to any threatening disaster situation or disaster;
- (d) the response plans and procedures, in the event of a disaster, providing for-
 - (i) allocation of responsibilities to the departments of the government at the district level and the local authorities in the district;
 - (ii) prompt response to disaster and relief thereof;
 - (iii) procurement of essential resources;
 - (iv) establishment of communication links; and
 - (v) the dissemination of information to the public;

(4) The District Plan shall be reviewed and updated annually.

(5) The copies of the District Plan shall be submitted to the Agency and shall be made available to the villages in the district.

District review of plan

56. The District Coordinator shall review the District Plan annually and make such amendments as are necessary to keep the District Plan up to date. Any periodic updates or amendments to the plan must be approved by the District Committee and the Agency before such updates or amendments can take effect.

PART IV - GOVERNMENT DISASTER MANAGEMENT MEASURES

Government to take measures

57. (1) Subject to the provisions of this Act, the Government shall take all such measures as it deems necessary or expedient for the purpose of disaster management.

(2) Without prejudice to subsection (1), measures which the Government may take include, but are not limited to:-

- (a) coordination of actions of the Departments of State, departments of the Government, the Agency, the Regional Committees, District Committees, local government authorities and other non-governmental organisations as requested by them or otherwise deemed appropriate by it;

- (b) cooperation and assistance in disaster management to the Council, Agency, the Regional Committees and District Committees;
- (c) ensure that the Departments of State or government agencies departments take necessary measures for preparedness to promptly and effectively respond to any threatening disaster situation or disaster;
- (d) deployment of security services from the military or police or any other civilian personnel as may be required for the purposes of this Act;
- (e) coordination with the United Nations agencies, international organisations and governments of foreign countries for the purposes of this Act;
- (f) establish institutions for research, training, and developmental programmes in the field of disaster management;
- (g) such other matters as it deems necessary or expedient for the purpose of securing effective implementation of the provisions of this Act.

(3) The Government may extend such support to other countries affected by major disaster as it may deem appropriate.

Responsibilities
of Departments
of Government in
The Gambia

58. It shall be the responsibility of every Department of State in The Gambia to –

- (a) integrate into its development plans and projects, and take measures necessary for the prevention of, preparedness for, response to, mitigation of and recovery from disasters, in accordance with the guidelines laid down by the Agency;
- (b) take measures necessary for capacity-building in the area of disaster management and the training of personnel in relation to disaster management;
- (c) respond effectively and promptly to any threatening disaster situation or disaster in accordance with the guidelines or directions of the Agency;
- (d) review the enactments administered by it, its policies, rules and regulations, with a view to incorporate therein the

provisions necessary for prevention of disasters, mitigation or preparedness;

- (e) allocate funds for measures for the prevention of, preparedness for, response to, mitigation of and recovery from disasters, as well as capacity-building;
- (f) take such other actions as it may consider necessary for disaster management.

PART V - EVACUATION

Consultation prior to evacuation

59. The National Coordinator shall assess the potential for loss of life, or injury to persons, where there is a threat of a hazard or where a disaster has occurred in The Gambia or in a part of The Gambia. In such circumstances, the National Coordinator shall consult with the Council, as to the advisability of recommending to the Secretary of State for the Interior for the ordering of an evacuation of inhabitants of the affected area.

Notice of Evacuation

60. (1) If, after a consultation pursuant to section 59, an evacuation is deemed necessary, the Secretary of State responsible for the interior acting on the recommendation of the National Coordinator and the Council, may issue a Notice Of Evacuation.

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

(3) Where a notice is issued pursuant to subsection (1), the National Coordinator shall coordinate the evacuation with the assistance of agencies involved in emergency and disaster management including the Police Force, the Fire Service and the Gambia Armed Forces as the case may be.

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

(5) A person who contravenes subsection (4) commits an offence and upon conviction is liable to imprisonment for a term not exceeding six months or to a fine not exceeding D3,000.00 or to both.

PART VI - GOVERNMENT ASSISTANCE DURING STATE OF DISASTER

State Of Disaster
Assistance

61. (1) Where a disaster has been declared to exist by the Council in any part of The Gambia and it considers that Regional Committee or District Committee for the affected area is unable to provide adequate disaster management services to deal with the disaster, the Secretary of State responsible for the Local Government may, after consultation with the Council concerned:-

- (a) by notice published in such manner as he or she thinks fit:-
 - (i) and to such extent and for such purposes as he may specify in the notice, take over any power or duty conferred upon the regional Committee in terms on this Act for the area concerned; and
 - (ii) confer or impose upon any person or authority, any power or duty conferred or imposed upon a regional or district committee by or in terms of this Act:
- (b) direct any person employed by the government to render such assistance as the Secretary of State may direct to any District Disaster Relief Coordinator or other person upon whom a power or duty is conferred by or under this Act;

(2) The Agency may direct any person employed by the Government:-

- (a) to evaluate from time to time the preparedness of district authorities within The Gambia in matters relating to disaster management and to report thereon;
- (b) in collaboration with the District Coordinator concerned, to activate disaster management services within any area and to coordinate all activities related to disaster management therein:

Provided that the Agency shall not give any direction in terms of this subsection to:-

- (i) a police Officer, without the consent of the Inspector General of Police; or

- (ii) member of The Gambia Armed Forces without the consent of the Chief of Defence Staff; or
- (iii) a prison Officer, without the consent of the Commissioner of Prisons;
- (iv) a fire officer without the consent of the Chief Fire Officer; or
- (v) an employee of government without the consent of the Secretary of State responsible for the Department of State in which the employee is posted.

Power to issue direction by Government

62. Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the Government to issue directions in writing to the Departments of States and Government agencies or any of its Officers or employees, as the case may be, to facilitate or assist in the disaster management and such Departments of States and other government agencies and any of its Officers or employees shall be bound to comply with such direction, provided that such directions would not reasonably place such persons' lives or property in danger.

Powers to be made available for rescue operations

63. Any Officer of the Government, when requested by either the Council or the Agency, shall to perform any of the functions in connection with the prevention of, preparedness for, response to, mitigation of and recovery from disasters and rescue or relief work.

Power of requisition of resources, provisions, vehicles, etc., for rescue operations, etc.

64. (1) If it appears to the Council, Regional Committee or District Committee or any Officer as may be authorised by it in this behalf, that-

- (a) any resources with any authority or person are needed for the purpose of prompt response;
- (b) any premises are needed or likely to be needed for the purpose of disaster operations and rescue operations; or any vehicle is needed or is likely to be needed for the purposes of transport of resources to or from disaster affected areas or transport in connection with rescue, rehabilitation or reconstruction, such authority may, by order in writing, requisition such resources or premises or such vehicle, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning.

(2) Whenever any resource, premises or vehicle is requisitioned under sub-section (1), the period of such requisition shall not extend beyond the period for which such resource, premises or vehicle is required for any of the purposes mentioned in that sub-section.

(3) In this section,-

(a) "resources" includes men and material resources;

(b) "services" includes facilities;

(c) "premises" means any land, building or part of a building and includes a hut, shed or other structure or any part thereof;

(d) "vehicle" means any vehicle used or capable of being used for the purpose of transport, whether propelled by mechanical power or otherwise.

Direction to
mediums of
communication of
warnings etc.

65. The Council, a Regional Committee, or a District Committee may recommend to the Government to give direction to any authority or person in control of any audio or audio-visual media or such other means of communication as may be available to carry any warning or advisories regarding any threatening disaster situation or disaster, and the said means of communication and media as designated shall comply with such direction.

Employee
protection who
assist in
emergency
situations

66. (1) Where the National Coordinator certifies in writing that the services of a person is or was needed by Agency, for the performance of tasks in response to the prevention of, preparedness for, response to, mitigation of and recovery from disasters or an emergency during a specified period, whether or not his usual employer consented to his absence, the employer of that person shall –

(a) not dismiss or prejudice in employment by reason of that absence;

(b) shall be obliged to continue paying the salary and all benefits to which the employee was entitled for the period specified.

(2) The period the National Coordinator may specify under subsection (1) shall in no case exceed a continuous period of two weeks.

(3) An employer who fails to comply with subsection (1) commits an offence and upon summary conviction is liable to imprisonment for a term not exceeding one year or to a fine not exceeding five thousand dalasis or to both.

Register of
volunteers

67. (1) The National Coordinator shall maintain a register to be known as the *Register of Volunteers*.

(2) A person who wishes to volunteer for the purposes of assisting in an emergency or a disaster situation shall submit his or her name to the National Coordinator for registration as a volunteer and the National Coordinator shall if he or she sees fit register in the Register of Volunteers the person as a volunteer.

(3) The Chairperson of each regional committee and district committee shall submit in writing to the National Coordinator on or before 1st July in each year the names of the members of their committees who wish to be registered as volunteers, and the National Coordinator shall include the names of these members as volunteers and register their names in the Register of Volunteers.

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

Obstructing a
disaster worker is
an offence

68. (1) A person must not knowingly obstruct, hinder or in anyway interfere with a person engaging in any activity as a disaster worker in the carrying out of disaster operations.

(2) A person who contravenes subsection (1) commits an offence and shall be liable on conviction to imprisonment for a term not exceeding 2 years a fine not exceeding D5,000.00 or both a fine and imprisonment.

Offence and
penalty

69. Any person who, without lawful excuse, fails to comply with an order or instruction given in terms of this Act, commits an offence and, on conviction, shall be liable to imprisonment for a period not exceeding 2 years to a fine not exceeding D50,000.00 or to or both.

PART VII – STATE OF EMERGENCY

Declaration of
state of
emergency

70. If the President is, on the advice of the Council, satisfied that a disaster in any area –

(a) is of such a nature and extent that exceptional measures are necessary to assist and protect the public of such area or that circumstances are likely to arise making such measures necessary,

- (b) constitutes a significant and widespread danger to life or property in The Gambia; or
- (c) exceeds the affected community's capabilities to deal with that disaster;

the President may, by order in writing, declare that a State Of Emergency exists in the whole, or a specified part or parts, of The Gambia in relation to that disaster.

Duration of declaration

71. (1) A declaration of a state of emergency has effect immediately on its being made and shall remain in force for a specific period as set out in the declaration and may be extended accordingly.

(2) The declaration of a state of emergency does not prevent the declaration of a further state of emergency in relation to the same or a different disaster.

Presidential Emergency powers

72. In addition to the general emergency powers set out under the Emergency Powers Act, the President shall, during a state of disaster, have the following powers:-

- (a) to suspend the provisions of any regulatory statute prescribing the procedures for conduct of government business or the orders, rules or regulations of any government agency, rules of procurement if compliance with the provisions of any statute, order, rule or regulation would in any way prevent, hinder, or delay necessary action in coping with the disaster-induced emergency;
- (b) to utilise all available resources of the Government including stores, equipment vehicles and facilities as reasonably necessary to cope with an emergency;
- (c) to transfer personnel or functions of Government departments and agencies or units thereof for the purpose of performing or facilitating emergency services;
- (d) to implement the relevant provisions of the National Disaster Plan to meet emergency requirements;
- (e) to mobilise strategic reserves of commodities and equipment and other resources;
- (f) to have access to and utilisation of The Gambia Police Force and Gambian military personnel, vehicles, equipment and radio communications, as well as their equipment;

- (g) to direct and compel the evacuation of all or part of the population from any disaster-stricken or threatened area if it is deemed that such an action is necessary for the preservation of life and move them to temporary shelter elsewhere where adequate facilities exist for their livelihood;
- (h) to prescribe appropriate routes, modes of transportation and destination in connection with evacuation;
- (i) to control in-coming and out-going traffic to and from a disaster area, the movement of persons within the area and the occupancy of premises therein, making provision for the availability and use of temporary emergency housing;
- (j) to suspend or limit the sale, dispensing or transportation of alcoholic beverages, firearms and explosives;
- (k) to requisition buildings, vehicles and equipment on the charge of centres and local government institutions needed for emergency purposes;
- (l) to take all necessary measures in order to prevent, alleviate, control and minimise the effects of disasters;
- (m) to make post-disaster reconstruction, rehabilitation and recovery plans;
- (n) to improve and enforce restrictions on the supply and usage of water in circumstances of severe prolonged droughts; and
- (o) to prepare an appeal for donor assistance and to receive, accept and account for any donations given for the purpose of disaster relief and management.

Council's power to direct government agencies

73. (1) While a declaration of a state of emergency is in force, the Council, in addition to the powers vested under this Act, may:-
- (a) direct any government agency to do or refrain from doing any act, or to exercise or refrain from exercising any function which shall be complied with despite any other Act or law to the contrary.
 - (b) supply and distribute food, water, fuel, electricity, medical assistance, shelter, and other basic necessities;
 - (c) maintain the means of transportation by land, air or water and the control of the transport of persons and things;

- (d) temporarily acquire or control any property, undertaking or land;
- (e) evacuate people in their own interest or that of the public;
- (f) enter and search of any premises;
- (g) through the Agency, pay compensation and remuneration to persons affected by government action under the provisions of this Act; or
- (h) any other matters which may apply to a specific disaster event.

Other special powers while declaration is in force

74. (1) The powers in this section apply only during a state of emergency.

(2) The National Coordinator, if necessary in the interest of safety, may:-

(a) direct a person to do any or all of the following:

(i) to leave particular premises and to move out of a disaster area;

(ii) take any children or adults present in particular premises who are in the person's care and to move them out of a disaster area;

(iii) not to enter a disaster area; or

(b) close to traffic any street, road, lane, thoroughfare or footpath or place open to or used by the public in a disaster area;

(c) close any other public or private place in a disaster area; or

(d) order any wall or premises that have been damaged or rendered insecure in a disaster area to be pulled down or repaired at the expense of the owner;

(e) shut off or disconnect the supply of any water or electricity in a disaster area; or

(f) take possession of, and remove, any material or thing in a disaster area that may be dangerous to life or property.

(3) If the person mentioned in subsection (2)(a) above does not comply with the direction, a member of the Gambia Police Force, Gambia Armed Forces or volunteer may do all such things as are reasonably necessary to ensure compliance with it, using such force as is reasonably necessary in the circumstances.

Powers of
National
Coordinator and
authorised
officers

75. (1) On the declaration of a State of Emergency and while that declaration remains in force, the National Coordinator or an authorised officer may, if he or she is of the opinion that it is necessary to do so, do or cause to be done all or any of the following things:

- (a) enter and, if necessary, break into any land, building, structure or vehicle (using such force as is necessary);
- (b) take possession of, protect or assume control over any land, body of water, building, structure, vehicle or other thing;
- (c) remove or destroy, or order the destruction of, any building, structure, vehicle, vegetation or seriously injured animal;
- (d) subject a place or thing to a decontamination procedure;
- (e) direct a person to submit to a decontamination procedure;
- (f) direct the owner of, or the person for the time being in charge of, any real or personal property to place it under the control or at the disposition of a specified person;
- (g) remove, or cause to be removed, to such place as the National Coordinator or authorised officer thinks fit, any person or animal, or direct the evacuation or removal of any person or animal;
- (h) direct or prohibit the movement of persons, animals or vehicles;
- (i) remove flammable material or any other hazardous material or cause flammable material or any other hazardous material to be removed from any place, building or structure;
- (j) cause any supply of fuel or other flammable liquid, any gas or electricity or any other hazardous material to be shut off or disconnected;
- (k) direct a person who is in a position to do so -
 - (i) to stop any work or operation;
 - (ii) to close any premises or other place;
 - (iii) to contain the escape of any hazardous material;
 - (iv) to nullify the effects of the escape of any hazardous material; or
 - (iv) to shut off or remove any plant, equipment, apparatus or device or to perform any operation in relation to any

plant, equipment, apparatus or device;

- (l) shut off, or cut off, the supply of water or any drainage facility;
- (m) make use of the gratuitous services of any person;
- (n) remove to such place as he or she thinks fit any person who obstructs or threatens to obstruct response or recovery operations; or
- (o) in the case of a major emergency or disaster to give directions to any control agency or person whose responsibilities require him or her to engage in response or recovery operations, or who is so engaged;

Disconnection of electricity and water supply

76. A person or company supplying water or electricity to any premises or other place must, at the direction of the National Coordinator or an authorised officer under this Part, send a competent person to shut off or disconnect the supply of water or electricity to the premises or other place, or to any adjacent premises or place, and the person so attending must comply with any direction that may be given in the exercise of powers under this section.

Recovery operations

77. (1) The National Coordinator may, at any time after the declaration of a State of Emergency direct authorised officers of Government agencies to take specified action for the purposes of carrying out recovery operations in accordance with the National Plan.

(2) An authorised officer may be assisted by volunteers in carrying out recovery operations under this section and may give such directions to a volunteer as the officer thinks necessary for that purpose.

(3) A recovery operation under this section cannot be carried out on private land unless—

(a) the owner of the land consents to the operation being carried out on the land; or

(b) the National Coordinator is satisfied that it is not reasonably practicable to seek the consent of the owner of the land (because the owner cannot be located or for any other reason) or that the consent of the owner is being unreasonably withheld.

(4) Where—

(a) the National Coordinator is satisfied that it is necessary or expedient that particular work be carried out in the course of a recovery operation under this section; and

(b) a person has, apart from this section, a duty to carry out the work or a legal liability in respect of carrying out the work, the National Coordinator may cause the work to be carried out and recover, as a debt from the person, the reasonable costs of carrying out the work.

(5) For the purposes of subsection (4) -

(a) if an independent contractor is engaged for the purpose of carrying out the work, the reasonable costs of carrying out the work will be taken to be the actual costs of engaging the contractor (and in any proceedings under subsection (4) a certificate apparently signed by the National Coordinator certifying the costs of engaging the contractor is, in the absence of proof to the contrary, to be accepted as proof of the costs so certified); or

(b) in any other case, the reasonable costs of carrying out the work are to be assessed by reference to the reasonable costs that would have been or would be incurred in having the action taken by an independent contractor engaged for that purpose.

PART VIII - COMPENSATION AND OTHER FORMS OF RELIEF

Compensation.

78. Where the National Coordinator 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 or her duties under this Act or any regulations made thereunder, he or she shall be entitled to receive compensation payable from public funds in respect of the expenses reasonably incurred in the treatment of the injury within The Gambia, or in the case of property to the value of such property loss or damage not exceeding D200,000.00 as the case may be.

Payment of
compensation.

79. (1) Whenever the Council, Agency, a Regional Committee or a District Committee or an Officer acting for such entities under the Act, requisitions any premises, there shall be paid to the owner of such property just and reasonable compensation for use, loss or damage to the premises which shall be determined by taking into consideration the following, namely:-

(i) the rent payable in respect of the premises, or if no rent is so payable, the rent payable for similar premises in the locality;

(ii) if as consequence of the requisition of the premises the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change:

Provided that where any person interested being aggrieved by the amount of compensation so determined makes an application within the thirty days to the Government for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the Government may determine:

Provided further that where there is any dispute as to the title to receive the compensation or as to the apportionment of the amount of compensation, it shall be referred by the Government to an arbitrator appointed in this behalf by the Government for determination, and shall be determined in accordance with the decision of such arbitrator.

Explanation

In this sub-section, the expression "person interested" means the person who was in actual possession of the premises requisitioned immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

(2) There shall be payable to a person whose services, equipment, supplies, materials or other things that are necessary for the relief of persons in the State have been requisitioned for the purposes of disaster management, compensation from money voted by National Assembly for that purpose.

(3) Whenever Council, Agency, a Regional Committee or a District Committee or Officer acting for such entities referred to in subsection (1) in pursuance of that subsection requisitions any vehicle or vessel, there shall be paid to the owner thereof compensation, the amount of which shall be determined by the Government on the basis of the fares or rates prevailing in the locality for the hire of such vehicle or the charter of such vessel:

Provided that where the owner of such vehicle or vessel being aggrieved by the amount of compensation so determined makes an application within the prescribed time to the Government, as the case may be, for referring the matter to an arbitrator, the amount of compensation to be paid shall be such as the arbitrator appointed in this behalf by the Government may determine:

Provided further that where immediately before the requisitioning the vehicle or vessel was, by virtue of a hire purchase agreement or charter agreement, in the possession of a person other than the owner, the amount determined under this sub-section as the total compensation payable in respect of the

requisition shall be apportioned between that person and the owner in such manner as they may agree upon, and in default of agreement, in such manner as an arbitrator appointed by the Government in this behalf may decide.

(4) Compensation for loss or damage arising out of a Government action during a disaster situation shall be payable at a reduced amount if the conduct of the person so affected thereby contributed to the loss or damage.

When compensation is not payable

80. (1) Compensation shall not be payable to a person for loss or damage in a disaster situation that may have been caused by the Government or officials acting under its authority, to the extent that –

(a) an amount for the loss or damage is recovered or recoverable by the person under a policy of insurance; or

(b) the loss or damage would have happened in any event irrespective of the exercise, or purported exercise, of the power.

Claims for compensation and remuneration to be submitted to Government

81. Any person who claims any compensation or remuneration for any action taken under this Act or any associated regulations made under this Act may submit such a claim for compensation to the National Coordinator acting on behalf of the Government.

Making a false compensation claim is an offence

82. A person who makes any false or misleading statement or otherwise attempt to mislead the National Coordinator, in making any claim for compensation under this Act commits an offence and shall be liable on conviction to a fine equivalent to treble the amount received or attempted to be received or D100,000 whichever of the amounts is greater or imprisonment for a term not exceeding 5 years or both a fine and imprisonment.

Application and decision about compensation

83. (1) A person who suffers loss or damage because of the exercise, or purported exercise of powers under sections 78 and 79 of this Act may apply to the National Coordinator for compensation for the loss or damage.

(2) The application must be made in writing within 90 days after the person suffers the loss or damage.

(3) Despite subsection (2), the National Coordinator may accept a person's application for compensation made more than 90 days after the person suffers the loss or damage if the National Coordinator is satisfied it would be reasonable in all the circumstances to accept the application.

- (4) The application must state -
- (a) details of the person's loss or damage; and
 - (b) the amount of compensation claimed; and
 - (c) the grounds for the amount claimed.

(5) The applicant also must provide any other relevant information reasonably required by the National Coordinator to decide the application.

Notice of decision 84. (1) As soon as practicable after deciding the application, the National Coordinator shall give the applicant a written notice stating all of the following –

- (a) the decision and the reasons for it;
- (b) if the National Coordinator decides to pay compensation:
 - (i) details of the amount and how the amount was assessed; and
 - (ii) if the amount is less than the amount claimed, that the applicant may appeal against the decision, and how the applicant may appeal;
- (c) if the National Coordinator decides not to pay compensation, that the applicant may appeal against the decision, and how the applicant may appeal.

(2) An applicant for the payment of compensation under this Part who is dissatisfied with the National Coordinator's decision to refuse to pay compensation or about the amount of compensation may appeal against the decision in the manner provided in this Act.

Starting an appeal 85. An appeal against the National Coordinator's decision regarding compensation under this Act shall be lodged either at the Magistrates Courts located at Banjul, Kanifing or Brikama.

Prohibition against discrimination. 86. While providing compensation and relief to the victims of disaster, there shall be no discrimination on the ground of sex, caste, community, descent or religion.

Disability Benefits 87. (1) The provisions of any enactment relating to the disability payment of compensation on the death of or injury to officers in the Public Service shall *mutatis mutandis* apply in relation to a volunteer or any other person performing any duty in terms of this Act as though he was an Officer in the Public Service.

(2) Any compensation payable in terms of subsection (1) shall be paid from the National Disaster Fund, which is hereby appropriated for the purpose.

Monetary relief to victims of disasters

88. (1) The Agency, on behalf of the Government, may at its absolute discretion, provide monetary relief, and not compensation, to victims of a disaster in order to alleviate such victim's pain and suffering.

(2) The category of persons mentioned in subsection (1) may apply in writing to the National Coordinator for monetary relief payments.

Reimbursement and indemnification

89. The National Coordinator's shall reimburse and indemnify every volunteer and other person employed in a disaster management for any reasonable expense or liability incurred by such volunteer or other person as a result of:-

- (a) carrying out any order or performing any disaster management service in terms of this Act; or
- (b) making available for the purpose of disaster management any equipment, land, building or other property.

Insurance policies to cover damage

90. All policies of insurance against injury or death of a person, or damage or loss of property caused by, or occurring during the course of, an disaster shall be deemed to extend to damage or loss arising from measures taken by any person acting in pursuance of an authority conferred by or under this Act at the scene of the emergency.

PART IX - FINANCE, ACCOUNTS AND AUDIT

Funds of the and Agency

91. (1) The Agency shall be funded from -

- (a) monies appropriated to the office of the Vice-President by the National Assembly;
- (b) monies received by way of grants, gifts or donations from sources inside or outside The Gambia for disaster related matters;

(2) Any funds received by the Council or Agency under subsection (1) (b) shall be placed into the National Disaster Fund.

National Disaster Fund.

92. (1) The Government may constitute a fund to be called the *National Disaster Fund* exclusively for the purpose of preventing, responding to, mitigation of or recovery from any threatening disaster situation or disaster.

(2) There shall be credited to the National Disaster Fund -

- (a) such amounts which the Government may, after due appropriation made by the National Assembly by law in this behalf provide;
- (b) monies received by the Council or the Agency under section 90(1)(b) by way of grants, gifts or donations from sources inside or outside The Gambia for disaster related matters;

(3) The National Disaster Fund shall be put at the use of the Agency to be applied towards meeting the expenses for disaster prevention, mitigation, response, relief and rehabilitation in accordance with the guidelines laid down in this Act.

Maintenance of accounts

93. (1) The Agency shall maintain accounts in which it shall record receipts into the National Disaster Fund and disbursements from the National Disaster Fund.

(2) In maintaining the accounts referred to in subsection (1) the Agency shall observe the provisions of the applicable financial instructions and other laws governing the receipt, control and disbursement of public funds.

Receipts and Disbursements

94. (1) There shall be paid into the National Disaster Fund:-

- (a) moneys donated from any source for the purpose of disaster management;
- (b) moneys appropriated by government for the purpose of disaster management; and
- (c) interest arising out of any investment of the fund.

(2) Subject to section 95 of this Act, there shall be paid out of the fund:-

- (a) moneys required for the discharge of the liabilities of the Agency in carrying out disaster management;
- (b) moneys required to defray expenses incurred by the Agency in the exercise and discharge of its disaster management functions; and
- (c) Subject to subsection (3), any other expenses as may be approved by the Secretary of State responsible for finance.

(3) Subject to this section, no money received by the National Disaster Fund in respect of a particular declared emergency or proclaimed situation may be disbursed otherwise than to, or for the purpose of the relief of:-

- (a) persons who suffered injury, loss or damage as a result of that declared disaster or proclaimed disaster situation, or
- (b) to assist communities adversely affected by that declared disaster or proclaimed disaster situation; and
- (c) in the payment of compensation under this Act.

(4) The Agency shall administer the National Disaster Fund subject to the directions of the Council.

(5) If the Council is satisfied that the National Coordinator has made sufficient payment to persons or communities on account of a particular declared disaster, the Council may, with the approval of the Secretary of State responsible for finance, require the Agency to leave the balance of the money in the National Disaster Fund to be applied under this section for the purpose of responding to some future declared disaster.

(6) The Secretary of State responsible for Finance may, by a contingencies warrant under his hand, make advances out of the Consolidated Revenue Fund if he is satisfied that there has arisen an urgent and unforeseen need for expenditures for which no other provision or no other sufficient provision exists for the relief of persons in the country for the purposes of disaster management.

National Disaster Fund not to be used to pay administrative costs

95. No money in the National Disaster Fund may be used to –
(a) pay salaries, allowances, per diems, or other forms of remuneration of members of the Council or staff of Agency, or
(b) purchase air tickets; or
(c) defray the administrative costs and expenses of administering the fund or for the daily administrative expenses of the Council or Agency, and

there shall be no vying from the National Disaster Fund to other accounts or uses, except as otherwise provided for in this Act.

Overpayment from fund

96. (1) Where the National Coordinator is of the opinion that a person who suffered injury, loss or damage as a result of a declared disaster has been overcompensated for that injury, loss or damage by reason of being paid-

- (a) money from the fund, and
- (b) damages or compensation from another source,

the National Coordinator may, by notice in writing given personally or by registered post to the person, require that person to pay to the National Disaster Fund the amount of the overcompensation as determined by the National Coordinator and specified in the notice.

(2) A person who is given a notice under subsection (1) is liable to pay to the National Coordinator as a debt due to the Government, the amount specified in the notice within the time specified in the notice (being a period of not less than one month from the day on which the notice is given).

(3) Any overpayment that has been refunded by the person who has received it to the National Coordinator shall then be credited by the National Coordinator into the National Disaster Fund within three working days of receipt thereof.

Donations

97. (1) All donations in money or any other form which are made either from within or outside The Gambia to assist in recovery from disaster or for other disaster-related needs shall be utilised for the purposes for which they have been donated only, unless where no conditions are attached, in which case such donations shall be used for the purposes of implementing disaster management programmes.

(2) A donation paid in monetary form into the National Disaster Fund or made to the Government for the purpose of disaster relief or shall not be diverted for any other purpose without the authority of the Council and the specific agreement of the donor persons, agencies or country that made the donation.

(3) A donation shall be taken on charge and accounted for in accordance with applicable laws and regulations governing the receipt, issue and control of public monies, stores, equipment, plants, vehicles, machinery, buildings and related matters.

Exemption from taxation

98. The monies received into the National Disaster Fund shall be exempt from all forms of taxation.

Funds of the regional committees

99. (1) A Regional Committee shall be funded from -

- (a) monies appropriated to the Governor's office for the region either by the National Assembly or Department of State responsible for Local Government;
- (b) monies received by way of grants, gifts or donations from sources inside or outside The Gambia for disaster related matters;

(2) Any funds received by a Regional Committee under subsection (1) (b) shall be placed into the Regional Disaster Fund.

Funds of the district committees

100. (1) A District Committee shall be funded from -

- (a) monies appropriated to its office of the District Chief for the district from district taxes, levies and commissions;
- (b) monies received by way of grants, gifts or donations from sources inside or outside The Gambia for disaster related matters;

(2) Any funds received by a District Committee under subsection (1) (b) shall be placed into the District Disaster Fund.

Establishment of funds by regional and district authorities

101. (1) Each Regional Committee shall establish for the purposes of this Act a fund to be called the Regional Disaster Fund for their respective regions in The Gambia;

(2) Each District Committee shall establish for the purposes of this Act a fund to be called the District Disaster Fund for each district in The Gambia;

(3) All donations in money or any other form which are made either from within or outside The Gambia to assist in recovery from disaster or for other disaster-related needs within the region or district as the case may be, shall be utilised for this purposes for which they have been donated only, unless where no conditions are attached, in which case such donations shall be used for the purposes of implementing disaster management programmes. Donations shall not be diverted for any other purpose without the authority of the donor persons, agencies or donor Government.

Exemption from taxation

102. The monies received into a Regional Disaster Fund or a District Disaster Fund shall be exempt from all forms of taxation.

Regional and District Disaster Funds not to be used to pay administrative costs

103. No money in the respective Regional Disaster Fund or District Disaster Fund may be used to –

(a) pay salaries, allowances, per diems, or other forms of remuneration of staff of any district committee, or

(b) purchase air tickets;

(c) defray the administrative costs and expenses of administering the fund or for the daily administrative expenses of the District Disaster Fund, and

there shall be no vying from the respective Regional Disaster Fund or District Disaster Fund to other accounts or uses, except as otherwise provided for in this Act.

Allocation of funds by Departments of State

104. (1) Every Department of State shall make provisions, in its annual budget, for funds for the purposes of carrying out the activities and programmes set out in its disaster management plan.

Emergency procurement and accounting.

105. Where by reason of any threatening disaster situation or disaster, the Council, the Regional Committee or the District Committee is satisfied that immediate procurement of provisions or materials or the immediate application of resources are necessary for rescue or relief-

- (a) it may authorise the concerned department or authority to make the emergency procurement and in such case, the standard procedure requiring inviting of tenders or quotations shall be deemed to be waived;
- (b) a certificate about the utilisation of provisions or materials by the controlling Officer authorised by the Council, Regional Committee or District Committee, as the case may be, shall be deemed to be a valid document or voucher for the purpose of accounting of emergency, procurement of such provisions or materials.

Accounts and audit

106. (1) The Agency shall keep proper records and books of accounts of its receipts and expenditure.

(2) The Agency shall prepare a statement of accounts in respect of each financial year.

(3) The accounts of the Agency in respect of each financial year shall be audited by the Auditor General or auditors appointed by the Auditor General within three months of the end of each financial year. The report shall include assessments relating to the effectiveness and the administration of the Agency.

(4) As soon as possible after the close of the financial year, but not later than four months thereafter, the Agency shall present to the Council and Secretary of State responsible for finance, an annual report comprising:-

- (a) a report on the activities of the Agency during the preceding year;
- (b) the audited accounts and the auditors' report together with the Agency's comments thereto if any;
- (c) a balance sheet showing the assets and liabilities of the Agency at the close of the financial year;
- (d) a statement showing the receipt and disposal of any stores donated or purchased during the year.

(5) A copy of the annual report and audited accounts shall be submitted by the Vice-President to the Cabinet at the earliest opportunity, for its comments.

Financial year

107. The financial year of the Agency shall be the same as the Government's of The Gambia's financial year.

PART X - OFFENCES AND PENALTIES

Punishment for obstruction, etc.

108. Whoever, without reasonable cause —

(a) obstructs assaults, threatens or abuses any officer or employee of the Government, the Agency, a Regional Committee or District Committee, or any other person exercising powers or functions under this Act in the discharge of the officer's or employee's functions under this Act; or

(b) refuses to comply with any lawful direction given by or on behalf of the Government, or by a person authorised by the Government, Agency, a Regional Committee or District Committee in that behalf,

commits an offence, and is liable on conviction to a fine of D350,000.00 or to a term of imprisonment of 2 years or to both such fine and imprisonment, and if such obstruction or refusal to comply with directions results in loss or imminent danger to a person's life or property, that punishment shall be increased to imprisonment for a term for a term of 5 years or to a fine not exceeding D500,000.00 to both such fine and imprisonment.

Punishment for false compensation claim.

109. Whoever knowingly makes a claim which he knows or has reason to believe to be false or misleading or otherwise attempt to mislead, in making any claim for compensation or for obtaining any relief, assistance, repair, reconstruction or other benefits consequent to disaster from any Officer of the Government, the Agency, a Regional Committee or a District Committee, commits an offence and shall be liable on conviction to a fine equivalent to treble the amount received or attempted to be received or D100,000.00 whichever of the amounts is greater or imprisonment for a term not exceeding 5 years or to both such fine and imprisonment.

Punishment for misappropriation of money or materials, etc.

110. Whoever, being entrusted with any money or materials, or otherwise being, in custody of, or dominion over, any money or materials, meant for providing relief in any threatening disaster situation or disaster, misappropriates or appropriates —

(a) for his or her own use, or

(b) for the use of other people who are not the victims of threatening disaster situation or disaster,

or disposes of such money or materials or any part thereof or wilfully compels any other person so to do, shall on conviction be punishable with imprisonment for a term which may extend to two years, and also with fine.

Punishment for false warning.	111. Whoever, not being a duly authorised official, makes or circulates a false alarm or warning as to a threatening disaster situation or disaster or its severity or magnitude, leading to panic, shall on conviction, be punishable with imprisonment for a term of not more than 5 years or a fine not exceeding D500,000.00 which may extend to one year or with fine.
Failure of Officer in contravention of the Act.	112. Any Officer, on whom any duty has been imposed by or under this Act and who ceases or refuses to perform or withdraws himself or herself from the duties of his office shall, unless he or she has obtained the express written permission of his or her official superior or has other lawful excuse for so doing, be punishable with imprisonment for a term not exceeding 1 year or to a fine of D10,000.00 or to both such fine and imprisonment.
Offences by Government agencies	<p>113. (1) Where an offence under this Act has been committed by any Government agency, the head of that Government agency, shall be deemed to have committed the offence and shall be liable to be proceeded against and punished accordingly unless such proves that the offence was committed without his or her knowledge or that he or she exercised all due diligence to prevent the commission of such offence.</p> <p>(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a Government agency and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the head of Government agency, such officer shall be deemed to be have committed that offence and shall be liable to be proceeded against and punished accordingly.</p>
Offences by body corporate	<p>114. (1) Where an offence under this Act has been committed by a body corporate, every person who at the time the offence was committed, was in charge of, and was responsible for, the body corporate, for the conduct of the business of the body corporate, as well as the body corporate, shall be deemed to have committed an offence under this Act and shall be liable to the same penalty as may be imposed for the principal offence when committed by a natural person and shall be proceeded against and punished accordingly:</p> <p>Provided that nothing in this sub-section shall render any such person liable to any punishment provided in this Act, if he or she proves that the offence was committed without his or her knowledge or that he or she exercised due diligence to prevent the commission of such offence or proves that he or she could not, by the exercise of reasonable diligence, have prevented the commission of the principal offence by the body corporate.</p>

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a body corporate, and it is proved that the offence was committed with the consent or connivance of or is attributable to any neglect on the part of any manager, secretary or other Officer of the body corporate, shall also, be deemed to have committed the offence and shall be liable to be proceeded against and punished accordingly.

(3) A person may be prosecuted and convicted of an offence under this section whether or not the body corporate has been prosecuted or convicted of the offence committed by the body corporate.

(4) For the purpose of this section -

(a) "body corporate" means a company and includes a firm or other association of individuals; and

(b) "manager ", has the meaning given to it in the Companies Act, but in relation to a firm, means a partner in the firm.

Consent for prosecution

115. No prosecution for offences punishable under sections 112 and 113 shall be instituted except with the consent of the Attorney-General.

Cognizance of offences

116. No court shall take cognizance of an offence under this Act except on a complaint made by the State or an official authorised in this behalf.

Impersonating an authorised officer etc

117. (1) It is an offence for a person to falsely represent that he or she is an authorised officer or other person with responsibilities under this Act.

(2) It is an offence for a person, without lawful authority to -

(a) wear any insignia or special apparel issued to an authorised officer for the purposes of this Act; or

(b) use any special equipment issued to an authorised officer for the purposes of this Act,

in circumstances where to do so would lead to a reasonable belief that he or she was an authorised officer.

(3) A person who contravenes subsections (1) or (2) commits an offence and is liable on summary conviction to a fine of not less than D5,000.00 to imprisonment for a period of not less than three months, or both such fine and imprisonment.

Omnibus penalty clause

118. A person who commits an offence under this Act for which no penalty is prescribed is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a period not exceeding two years, or both.

PART XI – MISCELLANEOUS

Immunity from suit	<p>119. (1) No suit, prosecution, proceeding, claim or set-off shall operate or lie in any court, against-</p> <ul style="list-style-type: none"> (a) the Government, (b) a member of the Council, (c) the officials of the National Disaster Management Agency, (d) the officials of any Regional Disaster Management, Committees, (e) the officials of any District Disaster Management Committee, (f) the officials of office of the Regional Coordinator, (g) the officials of office of the District Coordinator, or (h) any Officer or employee working for on behalf of above entities or persons, <p>in their official capacity, to recover compensation for any damage, loss, death or injury to any person or to property occasioned by such person in the exercise or discharge, or purported exercise or discharge in good faith of powers, duties, obligations, done or intended to be done or an omission to exercise any such power or perform any such duty under this Act, rules, regulations or notice of evacuation made thereunder, unless the act or omission in question was unreasonable or negligent or was done in bad faith or arises from wilful misconduct.</p> <p>(2) No action shall be brought against a volunteer, for anything done in good faith in the exercise of any power or duty conferred under this Act.</p>
Act to have overriding effect.	120. The provisions of this Act, shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.
This Act does not limit other Acts and laws	121. This Act does not limit the operation of any other Act or law, except as expressly provided by this Act.
Regulations	<p>122. The President, acting in accordance with the advice of Council, may make regulations consistent with this Act for or with respect to all matters which are –</p> <ul style="list-style-type: none"> (a) required to give effect to the purposes of this Act; (b) required or permitted by this Act; or (c) necessary or convenient for the proper administration of this Act, or for carrying out or giving effect to this Act.
By-laws.	123. An Area Council may, by notification in the Gazette, make by-laws to carry out the provisions of this Act.
Repeals	124. (1) Subsections (1), (2) and (3) of section 40 of Part VIII of the National Environmental Management Act 1994 are hereby

repealed.

(2). Notwithstanding anything contained in subsection (1) of this section, all regulations, orders, notices and directives made or given under subsections (1), (2) and (3) of section 40 of Part VIII of the National Environmental Management Act 1994, and in force at the time of the coming into operation of this Act shall be deemed to have been made or given under this Act and shall continue in force until other provisions shall have been made by virtue of this Act.

OBJECTS AND REASONS

The draft National Disaster Management Bill, 2008, sets up a formal structure for integrated and co-ordinated disaster management for The Gambia which focuses on prevention, preparedness, response, mitigation and recovery in relation to disasters or emergency situations as well as the management of the effects from such events.

The 2008 Bill is composed of several parts and sections thereof.

Part I of the Bill deals with preliminary provisions of the Act concerning the title of the Bill, definitions and limitations of application of the Act.

Part II deals with the disaster management organisation i.e structure. The Bill establishes a National Disaster Management Council, as well as regional and district disaster management committees in all the regions and districts throughout The Gambia to deal with disasters at the respective levels. Also established under the Bill is the office of the National Disaster Coordinator to assist the National Disaster Management Council in the daily administrative affairs of disaster management in the country. Similarly, there are both regional and district disaster coordinators for all the regions and districts throughout the country to assist the regional and district disaster management committees respectively in the daily administrative affairs of disaster management in the regions and districts which they oversee. To advice coordinators, technical advisory committees may be constituted in order to provide relevant advice by professionals in their area of specialisation aimed at managing disasters in The Gambia.

Part III concerns disaster management plans. For disaster management to be effectively integrated and co-ordinated, planning is necessary, and as such, under the Bill, disaster management plans are to be developed at the national, regional and district levels. Also under this ambit, disaster management plans are also to be developed by Government Departments of State.

Part IV concerns government disaster management measures. Under this Part, Government is empowered to take a host of measures for the purpose of managing disasters. Furthermore, every Department of State in The Gambia is also to create measures to cater for disasters and mitigation management.

Part V relates to evacuation. In any disaster, there may be occasion in which the Government may find it necessary to evacuate the inhabitants of any locality. In this regard, the Bill empowers the National Coordinator to assess the potential for loss of life and injury to persons where there is a threat of a hazard or where a disaster has occurred in The Gambia or in a part of The Gambia, who shall then consult with the Council, as to ordering an evacuation of inhabitants of any part of The Gambia. If after a consultation pursuant to section 59 of the Bill, an evacuation is deemed necessary, the Secretary of State responsible for the interior, acting on the advice of the National Coordinator, issues a notice of evacuation for the affected area.

PART VI deals with government assistance during state of disaster. In the area of government assistance during a state of disaster, the Bill empowers the government to take such actions as are necessary to render such assistance be it in the form of rescue operations, requisitioning of resources, provisions and vehicles and directing media houses to transmit communications carrying any warning or advisories regarding any threatening disaster situation or disaster etc.

Part VII of the Bill focuses on the declaration of a State Of Emergency by His Excellency the President of the Republic. In any major national disaster, there would be the need to maintain not only law and order, but also to ensure that the extraordinary powers are vested in Government to overcome such emergency. As such, there are specific provisions in the Bill for the declaration of a state of emergency to cope with the calamity of a national disaster. By virtue of such declaration, the National disaster Coordinator and other government officials are automatically vested with certain powers under the Bill to take certain actions and actions to address the disaster which resulted in the declaration.

Part VIII provides for compensation and other forms of relief. Whenever there is a disaster or where Government requisitions resources or orders the demolition of property for the purpose of avoiding hazards in pursuit of disaster management, as well as providing relief to victims of disaster, there is the need for compensation and other relief mechanisms. In this light, this Part of the Bill lays down the rules as to eligibility for compensation, the payment of compensation and appeals by property owners who suffer loss as a result of Government action during a time of disaster. There is also provision of other forms of financial relief that may be made available to the victims of disaster, which however, is not to be considered as compensation under the Bill.

Part VIII concerns Finance, Accounts And Audit. This part deals with the funding mechanisms for: (a) disasters, (b) the Agency, and (c) other regional and district

committees. It also deals with the way and manner such funds can be utilised by these bodies for the purposes of disaster management. Also under this Part, disaster funds are sets up at the national, regional and district levels. Furthermore, this Part also exempts from taxation the monies paid into such funds for the purpose of disaster management. The Bills also empowers the auditor general to audit the accounts of the national disaster fund.

Part IX deals with Offences and Penalties. Several types of actions are considered to be offences under the Bill for which appropriate penalties can be imposed either in the form of incarnation or payment of fines, or both.

Finally, Part X provides for miscellaneous provisions of the Bill which covers such issues as immunity from suit of officials acting under the Bill, and the also permits the making of regulations and by-laws to better carry into the effect the provisions of the Bill.

Dr. AJA ISATOU NJIE-SAIDY
Vice-President
of The Republic Of The Gambia

PART B

**SUPPLEMENTARY PROVISIONS RELATING TO VILLAGE
DISASTER MANAGEMENT COMMITTEES, VILLAGE DISASTER
COORDINATORS AND VILLAGE DISASTER PLANS**

**SUPPLEMENTARY PROVISIONS RELATING TO VILLAGE DISASTER
MANAGEMENT COMMITTEES, VILLAGE DISASTER COORDINATORS AND
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UNDER PART II OF BILL - DISASTER MANAGEMENT ORGANISATION

Village Development Management Committee

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| Establishment of Village Disaster Management Committee | <p>49. (1) Every village in The Gambia shall establish <i>Village Development Committee</i> referred to in this Act as the "Village Committee", under such name as reflects the village for which it is established.</p> <p>(2) A Village Committee shall consist of the <i>Alkalo</i> as the Chairperson and such number of other members, not exceeding four, as the <i>Alkalo</i> shall select.</p> <p>(3) The <i>Alkalo</i> shall appoint a person as the Village Coordinator of the Village Committee to exercise such powers and perform such functions as may be delegated to him by the Village Committee.</p> |
| Powers and functions of Village Committee | <p>50. (1) A Village Committee shall act as the village disaster planning, coordinating and implementing body for disaster management for the village and take all measures for the purposes of disaster management in the village in accordance with the guidelines laid down by the Council, the Regional Committee and District Committee.</p> <p>(2) The Powers and functions of Village Committee shall be <i>mutatus mutandis</i> as that of the District Committee, save it is restricted to the village level.</p> |
| Powers and functions of Village Committee in the event of any threatening disaster situation or disaster | <p>51. For the purpose of assisting, protecting or providing relief to the community, in response to any threatening disaster situation or disaster in a village, a Village Committee may-</p> <ul style="list-style-type: none">(a) give directions for the release and use of village resources;(b) control and restrict the movement of any person, vehicles and cattle into, within and departure from, a vulnerable or affected area;(c) control and restrict the entry of any person into, his movement within and departure from, a vulnerable or affected area;(d) remove debris, conduct search and carry out rescue operations;(e) provide shelter, food, drinking water and essential provisions, healthcare and services;(f) make arrangements for the disposal of the unclaimed corpses;(g) take such other steps as may be required or warranted to be taken in such a situation. |

Meetings and procedures	<p>52. (1) A Village Committee shall meet as and when necessary and at such time and place as the Chairperson may think fit.</p> <p>(2) Each Village Committee's procedures, meetings and voting shall be <i>mutatus mutandis</i> as that of the NDMC.</p>
Powers of Chairperson of Village Committee	<p>53. (1) The Chairperson of the Village Committee shall, in addition to presiding over its meetings, exercise and discharge such powers and functions of the Village Committee as the Village Committee may delegate to him.</p> <p>(2) The Chairperson of the Village Committee shall, in the case of an emergency, have power to exercise all or any of the powers of the Village Committee but the exercise of such powers shall be subject to <i>ex post facto</i> ratification of the Village Committee.</p>
Relationship between village committee and National, Regional and District Coordinators	<p>54. (1) In the event of a disaster within a village, the National Coordinator, Regional Coordinator or District Coordinator may initiate or take over a disaster operations and management in the affected area within the village, and the Village Committee shall render all assistance, coordinate, cooperate and act on the advice and instructions of the National Coordinator, Regional Coordinator or District Coordinator as the case may be.</p>
Offices of village coordinators	
Establishment offices of Village Coordinators	<p>55. (1) There shall be a Village Coordinator for each village of each district in a region throughout The Gambia.</p> <p>(2) A Village Coordinator shall be appointed by the Village Committee.</p> <p>(3) The Village Coordinators for each of the villages in the districts shall act as the central entity for coordinating disaster management within his village.</p>
Functions of Village Coordinators	<p>56. Each Village Coordinator is responsible for coordinating disaster related matters within his district and carry out functions in relation to their district <i>mutatus mutandis</i> as the District Coordinator, except:</p> <ul style="list-style-type: none"> (a) he cannot make any recommendation to the District Committee unless through the District Coordinator; (b) any matter that deals with matters at the district, regional or national level.
Village Coordinators relationship with National Coordinator	<p>57. (1) In the event of a disaster within a village, the National Coordinator, Regional Coordinator or District Coordinator may initiate or take over a disaster operations and management in the affected area within the village, and the Village Coordinator shall coordinate, cooperate and act on the advice and instructions of the National Coordinator,</p>

Regional Coordinator and District Coordinator.

(2) A Village Coordinator shall provide, without delay, such information as is requested by the National Coordinator, Regional Coordinator and District Coordinator.

UNDER PART III OF BILL - DISASTER MANAGEMENT PLANS

Village Disaster Plan

Village disaster
plan

62. (1) There shall be a plan for disaster management for each village in The Gambia.

(2) The Village Disaster Plan shall be prepared by the Village Committee, after consultation with the local authorities and having regard to the National Disaster Plan, Regional Plan and District Plan subject to the approval of the Regional Committee.

(3) The Village Disaster Plan shall include-

- (a) the areas in the district vulnerable to different forms of disasters;
- (b) the measures to be taken, for prevention and mitigation of disaster, by the Departments of the Government at the district level and local authorities in the district;
- (c) the capacity-building and preparedness measures required to be taken by the Departments of the Government at the district level and the local authorities in the district to respond to any threatening disaster situation or disaster;
- (d) the response plans and procedures, in the event of a disaster, providing for-
 - (i) allocation of responsibilities to the Departments of the Government at the district level and the local authorities in the district;
 - (ii) prompt response to disaster and relief thereof;
 - (iii) procurement of essential resources;
 - (iv) establishment of communication links; and
 - (v) the dissemination of information to the public;
- (e) such other matters as may be required by the Regional Committee.

(4) The Village Disaster Plan shall be reviewed and updated annually.

(5) A Village Committee shall send a copy of the Village Disaster Plan to the Regional Committee which shall forward it to the Agency for its approval.
