Sri Lanka Legislative Drafting Workshops

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AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE NATIONAL COUNCIL FOR DISASTER MANAGEMENT, THE NATIONAL DISASTER MANAGEMENT CENTRE, THE PREPARATION OF DISASTER MANAGEMENT PLANS; THE DECLARATION OF A STATE OF DISASTER; THE AWARD OF COMPENSATION AND FOR MATTERS CONNECTED THERewith OR INCIDENTAL THERETO.

WHEREAS human life, property and the environment of Sri Lanka is being threatened and endangered due to certain natural disasters taking place within the territory of Sri Lanka:

AND WHEREAS it has become necessary to protect human life and property of the people and the environment of Sri Lanka from the consequences of these natural disasters, by effectively dealing with them from a national perspective by the preparation of a national Policy and a Plan and by the appointment of centrally coordinated committees and institutions to give effect to such Policy and Plan:

NOW THEREFORE be it enacted by the Parliament of the Democratic Socialist Republic of Sri Lanka as follows:-

1. This Act may be cited as the Sri Lanka Disaster Counter-Measures Act, No.... of 1998, and shall come into operation on such date (hereinafter referred to as the "appointed date") as the Minister may appoint by Order published in the Gazette.
Establishment of the National Council for Disaster Management.

Constitution of the Council.

2. (1) There shall be established a body called the National Council for Disaster Management (hereinafter referred to as the "Council") which shall function as the supreme Council of the Government on matters related to disasters.

(2) The Council shall by the name assigned to it by subsection (1), be a body corporate and shall have perpetual succession and a common seal and may sue and be sued in such name.

3. (1) The Council shall consist of:

(a) the Prime Minister who shall be the Chairman of the Council;

(b) the Minister and the Ministers in charge of the following subjects -

(i) Rehabilitation and Reconstruction;
(ii) Environment;
(iii) Home Affairs;
(iv) Health;
(v) Provincial Councils;
(vi) Science and Technology; and
(vii) Housing and Construction;

(c) the Deputy Ministers in charge of the subjects of:

(i) Defence;
(ii) Fisheries; and
(iii) Finance;

(d) the Secretary to the Ministry of the Minister, who shall be the Secretary to
the Council; and

(e) the Additional Secretary to the Ministry of the Minister in charge of the subject of Defence who shall be the Assistant Secretary to the Council.

(2) The Council may from time to time co-opt any Minister in charge of any other subject as a member of the Council for such period as it may consider necessary.

(3) Where a subject referred to in subsection (1) has been assigned to the President or the Prime Minister, a person nominated by the President or the Prime Minister, as the case may be, shall represent the President or the Prime Minister at the Council.

4. The functions of the Council shall be:-

(a) to direct and formulate policies and programmes on which the National Disaster Management Plan for natural disasters and the National Emergency Operation plan for natural disasters shall be prepared in order to ensure

(i) preparedness for natural disasters and any other emergencies;

(ii) risk reduction planning; and

(iii) the prevention and mitigation of natural disaster;
(b) to facilitate emergency response, recovery, relief, rehabilitation and reconstruction in the event of any disaster;

(c) to designate appropriate organizations to implement where necessary plans approved by the Council;

(d) where it considers appropriate, to take all steps necessary to counter any disaster or impending disaster, in accordance with the National Disaster Management Plan or in accordance with such measures as may be decided by the Council for such purposes;

(e) to direct, co-ordinate and monitor the activities of the Disaster Management Centre established under this Act and the appropriate organizations designated under paragraph (c) and to ensure that available resources are used effectively by such Centre and organizations in discharging their functions;

(f) to ensure that adequate publicity is given to the polices and programmes formulated relating to disaster preparedness, prevention, mitigation and risk reduction;

(g) to facilitate and support local and community self reliance in the event of
any potential and actual disaster;

(h) to promote public awareness campaigns relating to disaster and funding of research and development on disaster management;

(i) to facilitate liaison with organizations and persons pursuing hazard, vulnerability and risk reduction studies and implementing action programmes and commissioning such studies and action programmes;

(j) to allocate responsibilities as appropriate to the National Disaster Management Centre established by this Act;

(k) to initiate programmes relating to prevention and mitigation of disaster and the provision of relief, rehabilitation and reconstruction;

(l) to appraise the Cabinet of Ministers on all relevant matters connected with any potential and actual disasters;

(m) identify and direct any Ministry, Government Department, Public Corporation or any other Organization or Institution to prepare a Disaster Management Plan based on the National Disaster Management Plan; and

(n) to recommend the allocation of funds for
5. The Chairman shall, if present preside at all meetings of the Council. In the absence of the Chairman from any such meeting of the Council, the Minister in charge of the subject of Social Services shall preside at such meeting.

6. (1) The quorum for any meeting of the Council shall be one-third of its total membership.
   (2) The Council may regulate the procedure in regard to the meetings of the Council and the transaction of business at such meetings.

7. (1) The seal of the Council may be determined and devised by the Council and may be altered in such manner as may be determined by the Council.
   (2) The seal of the Council shall be in the custody of the Secretary to the Council.
   (3) The Seal of the Council shall not be affixed to any instrument or document except with the sanction of the Council and in the presence of two members of the Council who shall sign the instrument or document in token of their presence.
   (4) The Council shall maintain a register of the instruments and documents to which the seal of
Establishment of the National Disaster Management Centre.

8. (1) There shall be established for the purpose of this Act, a National Disaster Management Centre under the Ministry of the Minister, headed by a Director appointed by the Minister;

(2) The functions of the Centre established under subsection (1) shall be:

(a) the preparation of National Disaster Management Plan based on the policies and programmes issued by the Council and upgrading the same when it becomes necessary;

(b) monitor the implementation of the various Disaster Management Plans prepared by respective Ministries, Departments, Corporations and Organizations under section 10 of this Act, and ensure speedy implementation where necessary;

(c) the preparation of National Emergency Operation Plan based on the policies and programmes issued by the Council;

(d) the establishment of data bank and a Disaster Management Information System at national, provincial, district, divisional and gramadhipari lavel, in collaboration with such agencies as are identified for such purposes by the Council;
9. (1) The National Disaster Management Centre shall be assisted in the preparation of the National Disaster Management Plan by a Technical Advisory Group consisting of professionals, experts and representatives of agencies relevant to the respective responsibilities.

(2) The members of the Technical Advisory Group will be appointed by the Minister with the concurrence of the Council. The Director of the Centre shall also be a member of the Technical Advisory Group and shall function as the Secretary and Co-ordinator of the Group.

10. (1) It shall be the duty of every Ministry, Government Department, Public Corporation and all other Organisation or Institutions, which is directed by the Council to prepare a Disaster Management Plan with respect to such Ministry, Government Department, Public Corporation or other Organisation or Institution based on the National Disaster Management Plan approved by the Council, to counter any disaster or impending disaster.

(2) Every Ministry, Government Department, Public Corporation or other Organisation or Institution referred to in subsection (1), shall submit to the Centre on or before such date as specified by the Council, a detailed Disaster Management Plan relating to disaster counter-measures proposed to be taken by such Ministry, Government Department, Public Corporation, Organisation or Institution as the case may be, to counter any disaster or impending disaster.
11. (1) If at any time, the extent or severity of a disaster or impending disaster is or is likely to be so great, that any counter-measures that may become necessary to counter such disaster or impending disaster are beyond the resources or means normally available to the administration, the President may, on President's own motion or on the advice of the Council, by Proclamation, declare that a state of disaster exists in respect of any area or areas specified in such Proclamation, or of the whole country.

(2) A Proclamation made under subsection (1) shall come into force on the date of such Proclamation and shall remain in force until it is revoked.

12. (1) Upon the declaration of a state of disaster by the the President, the Prime Minister shall direct any person authorized in writing by the Prime Minister or any appropriate organization designated by the Council under paragraph (c) of section 4, to take immediate action to -

(a) direct, co-ordinate and use all available resources as may be necessary within the area or areas in respect of which a Proclamation has been made under subsection (1) of section 11, to counter the effect of the disaster or the impending disaster or to mitigate the effect of such disaster or impending disaster;
Powers to be exercised by any authorized persons or appropriate organization when a state of disaster is

(b) direct, co-ordinate and use additional resources, if and when they become available, in accordance with such arrangements as may be made in respect of its allocation; and

(c) take such measures as are provided for in the National Emergency Operation Plan or in any Disaster Management Plans in accordance with such directions as may be issued to such person or appropriate organization as the case may be, by the Prime Minister.

(2) Notwithstanding the provisions of subsection (1), upon the declaration of a state of disaster by the President under section 11, it shall be the duty of every Ministry, Government Department, Public Corporation and other Organizations and Institutions, to take all measures necessary to implement immediately their Disaster Management Plan prepared under section 10 within their respective Ministry, Department, Corporation or other Organization or Institution as the case may be.

Powers to be exercised by any authorized person or appropriate organization when a state of disaster is

13. (1) Any person authorized in writing or any appropriate organization directed to take action under section 12, shall have the power to-

(a) enter any place where such person or organization as the case may be, believes
declared. on reasonable grounds that it is necessary to enter for the purpose of saving human life or for the prevention of injury to human life or for the rescuing of persons whose lives are endangered or to facilitate the carrying out of any other urgent measures with respect to relief from suffering and distress of affected persons;

(b) evacuate people, property and animals from affected or vulnerable areas;

(c) close traffic on any road or street (whether public or private), right of way, or in any public place, for the implementation of disaster counter-measures until the police and the armed force arrive;

(d) remove any obstruction impeding the implementation of disaster counter-measures with the assistance of the Police or the armed forces;

(e) requisition any movable or immovable property which is deemed necessary for the purpose of implementing any disaster counter-measures effectively and to pay compensation for the same in such amount as is determined by the Divisional Secretary of the Division within which such property is situated; and
(f) do any other act as such person or organization may consider reasonable and necessary for the purpose of implementing effectively any disaster counter-measure; or to perform any act preliminary or incidental to any duty imposed on such person or organization under section 12.

(2) The powers conferred under subsection (1) on any person or organization shall be exercised by such person or organization only within the area or areas in respect of which such person or organization has been so authorized.

14. (1) Any person who suffers loss or damage to his property by reason of any act or omission or default of act in the exercise of the powers conferred on any person or organization under section 12 or 13, or by a police officer or a member of the armed forces, shall be entitled to compensation in respect of such loss or damage of an amount determined by the Divisional Secretary of the Division within which such property is situated.

(2) No person who has incurred any loss or damage in respect of his property shall be entitled to any remedy, redress or relief in any court otherwise than by way of compensation.

(3) The amount of such loss or damage to property shall, in case of dispute, be determined by the court within the jurisdiction of which such property is situated, on application made in that behalf by the person suffering such loss or damage, by way of summary procedure.
15. The initial capital of the Council shall be two million rupees. The amount of the initial capital shall be paid out of the Consolidated Fund in such installments as the Minister may determine in consultation with the Minister in charge of the subject of Finance, and such sums shall be credited to the Fund established under section 16.

16. (1) The Council shall have its own Fund. There shall be credited to the Fund of the Council—

(a) all such sums of money as may be voted, from time to time, by Parliament for the use of the Council;

(b) all such sums of money as may be received by the Council in the exercise, discharge and performance of its powers, functions and duties; and

(c) all such sums of money as may be received by the Council by way of loans, donations, gifts or grants from any lawful source whatsoever, whether in or outside Sri Lanka.

(2) There shall be paid out of the Fund of the Council all such sums of money as may be required to defray any expenditure incurred by the Council in the exercise, discharge and performance of its powers, functions and duties under this Act.

17. (1) The Council may appoint such number
of officers, servants and agents as it considers necessary for the discharge of its functions and for the administration and implementation of this Act.

(2) The officers, servants and agents appointed under subsection (1) shall be remunerated in such manner and at such rates and shall be subject to such conditions of service as may be determined by the Council.

(3) At the request of the Council, any officer in the public service may with the consent of that officer and the Secretary to the Ministry of the Minister in charge of the subject of Public Administration, be temporarily appointed to the staff of the Council for such period as may be determined by the Council with like consent or be permanently appointed to such staff with like consent.

(4) Where any officer in the public service is temporarily appointed to the staff of the Council, the provisions of subsection (2) of section 14 of the National Transport Commission Act, No. 37 of 1991 shall, mutatis mutandis, apply to and in relation to him.

(5) Where any officer in the public service is permanently appointed to the staff of the Council, the provisions of subsection (3) of section 14 of the National Transport Commission Act, No. 37 of 1991 shall, mutatis mutandis, apply to and in relation to him.

(6) Where the Council employs any person
Designation of appropriate organizations.

who has entered into a contract with the Government by which he has agreed to serve the Government for a specified period, any period of service with the Council by that person shall be regarded as service to the Government for the purpose of discharging the obligations of such contract.

18. (1) Whenever the Council considers it appropriate, the Council may designate any institution or organization including any Non-Governmental Organization, as an appropriate organization (in this Act referred to as an "appropriate organization") which will be required to carry out and implement the National Disaster Management Plan or the National Emergency Operations Plan, as the case may be, and generally assist the Council in the discharge of its functions.

(2) The Council shall determine and specify the functions which an appropriate organization should discharge in order to carry out and implement the respective plans referred to in subsection (1), and where necessary issue guidelines for the same.

(3) Where an appropriate organization is designated by the Council under subsection (1), the Council shall by Order published in the Gazette, specify the area or areas in which each such appropriate organizations, shall carry out its implementation activities.

19. (1) The Chairman may, subject to such conditions as may be specified in writing, delegate
functions by the Chairman.  

all or any of his powers, duties or functions under this Act to any member of the Council.

(2) Notwithstanding any such delegation under subsection (1), the Chairman may exercise perform or discharge any such power, duty or function.

(3) A member to whom any power, duty or function has been delegated under subsection (1) shall, in the exercise, performance or discharge of such power, duty or function, comply with such directions or conditions as the Chairman may from time to time communicate in writing to such member.

20. No suit or prosecution shall lie against a member of the Council or any person or appropriate organization authorized by the Prime Minister under section 12, or a police officer or a member of the armed forces for any action which is done in good faith under this Act.

21. Every person who assaults, obstructs, threatens, intimidates, abuses or insults any person exercising any power or discharging any duty conferred on or imposed on such person by this Act, shall be guilty of an offence under this Act and shall on conviction after summary trial before a Magistrate be liable to imprisonment of either description for a term not exceeding two years or to a fine not exceeding five thousand rupees, or to both such imprisonment and fine.

22. In this Act, unless the context otherwise requires -
"disaster" means the actual or imminent occurrence of an event, which endangers or threatens to endanger the safety or health of any person or group of persons in Sri Lanka, or which destroys or damages, or threatens to destroy or damage any property, and includes—

(a) a landslide,
(b) a cyclone,
(c) a flood,
(d) a drought,
(e) an industrial hazard,
(f) a tsunami (seismic wave),
(g) an earthquake,
(h) an air hazard,
(i) a maritime hazard,
(j) a fire,
(k) an explosion,
(l) an epidemic;

"disaster counter-measures" means measures that are necessary or desirable to avert, minimize or counter the effect of an impending disaster or to mitigate the effect of a disaster upon members of the public or any property belonging to an individual or the State, and includes the conduct of, or participation in, training for such purposes;

"public corporation" means any corporation, board or other body which was or is established by or
under any written law with funds or capital wholly or partly provided by the Government from the Consolidated Fund by way of grant, loan or otherwise; and

"resources" includes manpower or animals, vehicles, boats, plant, apparatus, implements, earthmoving equipment or other equipment of any kind, finance, storage facilities, movable and immovable property considered essential for the life of the community.

23. In the event of any inconsistency between the Sinhala and Tamil texts of this Act, the Sinhala text shall prevail.