



ANALYSIS

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1973, No. 4

An Act to provide for hurricane safety

(18 May 1973)

BE IT ENACTED by the Legislative Assembly of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Short Title - This Act may be cited as the Hurricane Safety Act 1973

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

"Minister" means the Minister charged with the responsibility of hurricane safety.

3. Chief Hurricane Safety Officer - (1) The Minister shall from time to time by notice in the Gazette appoint -

- (a) A Chief Hurricane Safety Officer, stationed in Rarotonga who shall be charged with the duty of carrying this Act into effect; and
- (b) A Deputy Chief Hurricane Safety Officer, stationed in Rarotonga, to act in case of the illness, absence, death or removal of the Chief Hurricane Safety Officer.

(2) The Deputy Chief Hurricane Safety Officer while so acting, shall exercise the duties and shall have the powers and authorities of the Chief Hurricane Safety Officer, and the fact that he so acts shall be sufficient evidence of his authority to do so.

4. Hurricane Safety Officers - (1) The Chief Hurricane Safety Officer shall from time to time appoint -

- (a) Hurricane Safety Officers, who will be in charge of Hurricane Safety arrangements for the island or district to which they are appointed:
- (b) Supervisors, who will be in charge of Safety Centres and posts to which they are appointed:
- (c) Hurricane Safety Officers for each village or tapere on the recommendation by the Village Committee for that area:
- (d) Such other officers as in the opinion of the Chief Hurricane Safety Officer are required in any island to implement the provisions of this Act:
- (e) A substitute for any officer appointed under this section to act in the case of the illness, absence, death or removal of that officer. The substitute while so acting, shall exercise the duties and have the powers and authorities of the officer for whom he is acting, and the fact that any substitute so acts shall be sufficient evidence of his authority to do so.

(2) Any reference in this Act to one of the officers appointed under this section shall be deemed to include any substitute appointed for that officer.

(3) Every person appointed under this Act shall exercise his duties and functions subject to the control of the Chief Hurricane Safety Officer, and shall comply with any directions received from him from time to time.

5. Functions and powers of Chief Hurricane Safety Officer - (1) The functions of the Chief Hurricane Safety Officer shall be -

- (a) To advise and assist the Minister in all matters relating to hurricane safety:
- (b) To exercise and perform such functions, duties, and powers with respect to hurricane safety as are conferred or imposed on him by this Act.

(2) Without limiting the generality of the provisions of subsection (1) of this section, the Chief Hurricane Safety Officer shall have the following specific functions:-

- (a) The co-ordination of the planning and execution generally of hurricane safety measures:
- (b) The taking of all steps necessary to provide, or to arrange the provision of, or otherwise to render readily available, personnel, material, and services adequate for the effective carrying out of hurricane safety:
- (c) The direction and control for the purposes of this Act of personnel, material, and services available and at his disposal for hurricane safety purpose.

(3) In the exercise of his functions, the Chief Hurricane Safety Officer may -

- (a) Co-ordinate the use of, and during a state of warning or of emergency use, the personnel, material, and services made available by Departments of State, other Government agencies, statutory corporations, public bodies, other organisations, and otherwise for the purposes of hurricane safety, and in particular, without limiting the generality of the foregoing provisions of this paragraph, for -
 - (i) The provision of transport;
 - (ii) The removal of endangered persons and casualties from any area affected by hurricane emergency to areas of safety or to hospitals;
 - (iii) The affording of medical care and attention to casualties;
 - (iv) The relief of distress and suffering;
 - (v) The accommodation, feeding, care, and protection of persons;
 - (vi) The provision of other services necessary for the welfare of the public;
 - (vii) The purposes of this Act generally as may be directed by the Minister or considered necessary by the Chief Hurricane Safety Officer;
- (b) Enter into arrangements with any person whereby that person gives or undertakes to give his services or those of his staff, whether individually or in units under the control of that person, for the purpose of carrying out such hurricane safety measures as may be agreed upon:

- (c) Devise, promote, and carry out, or cause to be carried out, research and investigations into matters relating to hurricane safety, and promote and carry out, or cause to be carried out, the dissemination of information and advice on matters relating to hurricane safety:
- (d) Promote and carry out, or cause to be carried out, the training of personnel for hurricane safety purposes.

(4) During a state of warning or emergency the Chief Hurricane Safety Officer shall have and may exercise, in addition to the functions and powers specified in this section, such functions and powers as may be conferred on him by regulations made under this Act.

6. Delegation of powers of Chief Hurricane Safety Officer - (1) The Chief Hurricane Safety Officer may from time to time, by writing under his hand, either generally or particularly, delegate to any employee of the Crown or of any statutory corporation all or any of the powers exercisable by the Chief Hurricane Safety Officer under this Act, except this power of delegation.

(2) Subject to any general or special directions given or conditions attached by the Chief Hurricane Safety Officer, any person to whom any powers are delegated under this section may exercise those powers in the same manner and with the same effect as if they had been conferred on him directly by this section and not by delegation.

(3) Every person purporting to act pursuant to any delegation under this section shall be presumed to be acting in accordance with the terms of the delegation in the absence of proof to the contrary.

(4) Any delegation under this section may be made to a specific employee or to employees of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices.

(5) Every delegation under this section shall be revocable in writing at will, and no such delegation shall prevent the exercise of any power by the Chief Hurricane Safety Officer.

(6) Every delegation under this section shall, until revoked, continue in force according to its tenor. In the event of the Chief Hurricane Safety Officer by whom any such delegation has been made ceasing to hold office, it shall continue to have effect as if made by the person for the time being holding office as Chief Hurricane Safety Officer.

7. Hurricane Safety Committee - (1) For the purposes of this Act there shall be a Committee, to be called the Hurricane Safety Committee.

(2) The Committee shall consist of -

- (a) The Chief Hurricane Safety Officer, who shall be Chairman:
- (b) The Superintendent of Police:
- (c) The Director of Works:
- (d) The Superintendent of Radio:
- (e) The Director of Health:
- (f) Chief Postmaster:
- (g) Secretary of Internal Affairs:
- (h) Such other persons as are appointed by the Chief Hurricane Safety Officer with the approval of the Minister.

8. Functions of Hurricane Safety Committee - (1) The general functions of the Hurricane Safety Committee shall be to advise and assist the Chief Hurricane Safety Officer in planning and implementing all measures considered necessary or desirable for the establishment, maintenance, and effective operation of hurricane safety.

(2) The Committee shall determine its own procedure.

9. Preparation and approval of National Hurricane Safety plans - (1) Not later than the first day of November in each year the Chief Hurricane Safety Officer shall forward to the Minister a national plan in respect of hurricane safety for the immediately ensuing hurricane season.

(2) Where the Minister is satisfied that any national plan prepared under this section provides adequately for hurricane safety measures, he may approve the plan, and the plan shall thereupon be deemed to be operative.

10. Obligation to conform to operative plan - Every department of state, other government agency, or statutory corporation required or authorised by any operative plan, or regulations made under this Act to undertake any hurricane safety measures or to exercise any functions shall take all necessary steps to undertake those measures or to exercise those functions.

11. State of Warning - (1) A state of warning shall exist from the time a preliminary warning is publicly notified by such means of communication as are available by the Chief Hurricane Safety Officer, or by the New Zealand Meteorological Service.

(2) The state of warning shall continue until an all clear signal is publicly notified by such means of communication as are available by the Chief Hurricane Safety Officer or the New Zealand Meteorological Service.

12. Declaration of state of emergency - (1) If at any time it appears to the Minister that -

- (a) A civil emergency has occurred or may occur; and
- (b) The emergency is or is likely to be of such extent or magnitude or severity that national measures are necessary or desirable in respect of it, he may declare a state of emergency for any island or islands, as he sees fit.

(2) The Minister shall forthwith give public notice, by such means of communications as are available, of every declaration of a state of emergency made by him under subsection (1) of this section; and the declaration shall be gazetted as soon as practicable.

(3) A state of emergency shall terminate on the seventh day after the date on which it was declared.

13. Compensation for injury and loss of or damage to personal property - (1) Every person who while carrying out hurricane safety work, or participating in hurricane safety training, under the control of any person appointed under sections 3 or 4 of this Act, suffers bodily injury or loss or damage to his personal property shall be entitled to receive compensation equal to -

- (a) All expenses directly incurred as a result of the injury; or
- (b) The value of any personal property that has been lost; or

- (c) The diminution in value of any personal property that has been damaged -

as the case may be, if the injury or loss or damage was directly attributable to carrying out of such work or the participation in such training.

(2) Any compensation payable under subsection (1) of this section shall be paid by the Crown out of moneys appropriated by the Legislative Assembly for the purpose.

(3) In the event of any dispute as to the proper compensation payable under this section the amount of compensation payable be fixed by the High Court.

(4) For the purposes of this section, travelling directly to and returning directly from any place where hurricane safety training is to be or has been carried out shall be deemed to be the carrying out of such work or the participation in such training as the case may be.

14. Protection from liability - (1) No action or proceedings shall be brought against the Crown, or the Chief Hurricane Safety Officer, or any officer or servant of them, or against any other person whatsoever to recover damages for any damage to property occasioned by any person in the exercise or performance in good faith of his powers, duties, or obligations under this Act.

(2) No person shall be personally liable for any act done or default made by him in good faith in the course of carrying out hurricane safety work, or participating in hurricane safety training, under the control of a person referred to in sections 3 or 4 of this Act.

15. Requisitioning powers - (1) Where a state of warning exists or a state of emergency has been declared, and, in the opinion of the Chief Hurricane Safety Officer or member of the Police, the action authorised by this subsection is immediately and urgently necessary for the preservation of human life, he or any person authorised by him may, without any further authority than this subsection, require the owner or person for the time being in control of any vehicle, horse, boat, apparatus, implement, earth-moving equipment, construction equipment, or other equipment of any kind whatsoever (hereinafter in this section referred to as requisitioned property) forthwith to place that requisitioned property under the control and direction of the Chief Hurricane Safety Officer, Hurricane Safety Officer or member of the Police, or person so authorised, as the case may be:

Provided that where the owner or person for the time being in control of that requisitioned property cannot be immediately found the Chief Hurricane Safety Officer, Hurricane Safety Officer or member of the Police, or person so authorised may assume forthwith the control and direction of the requisitioned property.

(2) Every person commits an offence against this Act who fails to comply with any direction given to him under subsection (1) of this section.

Provided that no person shall be deemed to have committed an offence under this section unless the Court is satisfied that the Chief Hurricane Safety Officer, Hurricane Safety Officer or member of the Police or person so authorised had reasonable grounds for believing that in all the circumstances of the case the requirement was immediately and urgently necessary for the preservation of human life.

(3) Where under this section any requisitioned property has come under the control of a Chief Hurricane Safety Officer, Hurricane Safety Officer or member of the Police, there shall, on application by the owner, be paid to him out of money appropriated by Legislative Assembly such amount as the Minister approves by way of reasonable compensation for -

- (a) The use of that requisitioned property:
- (b) Any loss of or damage or injury to that requisitioned property suffered or incurred while under that control.

16. Evacuation of places and buildings - (1) Where a state of warning exists or a state of emergency has been declared, and, in the opinion of the Chief Hurricane Safety Officer or a Hurricane Safety Officer or any member of the Police, the action authorised by this subsection is immediately and urgently necessary for the preservation of human life, he or any person authorised by him may, without any further authority than this subsection, require the evacuation of any area or building or place and the exclusion of any persons and vehicles from any area, building, or place.

(2) Every person commits an offence against this Act who fails to comply with any direction given to him under subsection (1) of this section:

Provided that no person shall be deemed to have committed an offence under this section unless the Court is satisfied that the Chief Hurricane Safety Officer or Hurricane Safety Officer or member of the Police had reasonable grounds for believing that in all the circumstances of the case the requirement was immediately and urgently necessary for the preservation of human life.

17. Obstruction or personation of officers - Every person commits an offence who wilfully -

- (a) Prevents the Chief Hurricane Safety Officer, any person acting under the authority of the Chief Hurricane Safety Officer, or any member of the Police, or any person duly authorised or employed for the purpose of carrying out any provision of or under this Act or of any operative plan from carrying out any such provision; or
- (b) Obstructs or impedes any such person in carrying out any such provision; or
- (c) Not being a person referred to in paragraph (a) of this section, for the purpose of committing or facilitating the commission of any offence under any enactment, by words, conduct, or demeanour pretends that he is such a person, or puts on or assumes the dress, name, designation, or description of such a person.

18. Penalty for offences - Every person who commits an offence against this Act is liable on conviction to imprisonment for a term not exceeding three months or a fine not exceeding four hundred dollars.

19. Regulations - (1) The High Commissioner may from time to time, by Order in Executive Council, make such regulations with respect to hurricane safety as appear to him to be necessary or expedient for the purpose of securing the public safety and generally safeguarding the interests of the public during any warning or emergency.

(2) Regulations made under subsection (1) of this section may prescribe penalties for the breach of any such regulation, not exceeding -

(a) In the case of an offence committed wilfully by an individual, imprisonment for a term of three months or a fine of two hundred dollars:

(b) In the case of any other offence committed by an individual, a fine of one hundred dollars.

(3) The High Commissioner may from time to time, by Order in Executive Council, make regulations generally providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act or any operative national plan and for the due administration of this Act.

(4) All regulations made under this Act shall be laid before the Legislative Assembly within twentyeight days after the making thereof if the Legislative Assembly is then in Session, and, if not, shall be laid before the Legislative Assembly within twentyeight days after the commencement of the next ensuing session.

20. Annual Report - (1) The Chief Hurricane Safety Officer shall, no later than the thirty-first day of May in each year furnish to the Minister a report on the administration of this Act.

(2) A copy of the report shall be laid before the Legislative Assembly within twentyeight days after it has been received by the Minister if the Legislative Assembly is in Session, and, if not, shall be laid before the Legislative Assembly within twentyeight days after the date of commencement of the next ensuing session.

This Act is administered by the Chief Hurricane Safety Officer