

I assent.

(L.S.)

GUIDO DE MARCO
President

5th November, 1999

ACT No. XV of 1999

AN ACT to provide for the establishment of a Civil Protection Department and an Assistance and Rescue Force, and for matters connected therewith or ancillary thereto.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

1. This Act may be cited as the Civil Protection Act 1999, and shall come into force on such date as the Minister responsible for Civil Protection may by notice in the Gazette appoint. Short title and commencement.

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

“the Commander” means the Commander appointed to act as such under section 9 of this Act;

“the Council” means the Civil Protection Council established under section 5 of this Act;

“the Department” means the Department of Civil Protection established by section 3 of this Act;

“the Director” means the Director of the Department of Civil Protection and includes any officer designated or authorised by the Director to act for a purpose or class of purposes of this Act;

“disaster” means an unforeseeable event which causes or threatens to cause damage to the lives and health of a significant number of people, or to property or to vital supply resources of the population or to the environment, and the urgency of the situation requires the co-operation of authorities, institutions, and organisations for prompt remedial action;

“the Force” means the Rescue and Assistance Force established by section 8 of this Act;

“the Minister” means the Minister responsible for Civil Protection and includes, to the extent and authority given, any person or body of persons authorised by the said Minister for any purpose or class of purposes of this Act.

Establishment
of Department.

3. There shall be a Civil Protection Department which shall be a department of Government headed by a public officer to be styled Director of Civil Protection and which shall have the functions set out in section 4 of this Act.

Functions
of the
department.

4. The functions of the Department shall be:-

(a) to prepare contingency plans to respond to a disaster as well as to natural, industrial and other emergencies that may occur;

(b) to organise and co-ordinate training facilities and courses for personnel that may be required in a national or regional disaster or in an emergency as aforesaid;

(c) to establish the infrastructural set-up required to ensure co-ordination between the various departments of Government, local councils and non-governmental organisations which could be called upon to respond in a national or regional disaster or in an emergency as aforesaid;

(d) to carry out vulnerability and risk assessment studies;

(e) to promote public awareness of civil protection issues;

(f) to maintain an assistance and rescue force;

(g) to prepare regulations under this Act and under the Emergency Powers Act (Cap. 178) that may be required to respond to a national or regional disaster or an emergency as aforesaid; and

(h) in general to perform such other functions in connection with civil protection as the Minister may from time to time assign to it.

5. (1) There shall be established a Council to be designated the "Civil Protection Council" having the functions and duties set out in this Act. Civil
Protection
Council.

(2) The Council shall be appointed by the Prime Minister as follows:-

(a) a number of representative members, being not more than five, who shall be chosen from amongst public officers occupying a senior position and performing duties in the ministries responsible for public works, environment, telecommunication and transport services, health services, economic affairs, fuel and energy affairs, and Gozo affairs;

(b) one member who shall be chosen from amongst persons having knowledge and experience in matters relating to civil protection after consultations with representatives of voluntary organisations concerned with such matters;

(c) one member who shall be nominated by the Local Councils Association established in terms of regulation 3 of the Local Councils Association Regulations, 1994. (L.N. 49 of 1994.)

(3) The Chairman shall be the Minister responsible for Civil Protection and the Deputy Chairman shall be the Permanent Secretary in the same Ministry, and the Commissioner of Police, the Commander Armed Forces and the Director of Civil Protection shall be ex officio members.

(4) The appointed members shall hold office for such term, not being more than three years, as may be specified in their letter of appointment.

(5) Where the seat of any appointed member is vacated before the expiration of the term fixed in his letter of appointment, the Prime Minister shall appoint another person to replace such member for such term, not being a term of more than three years, as the Prime Minister may specify in his letter of appointment.

Provided that the Council may act notwithstanding any such vacancy.

(6) The Deputy Chairman shall act instead of the Chairman whenever the Chairman is absent from a meeting of the Council or is unable to act as Chairman for any reason.

(7) Notwithstanding any other provision of this section the Prime Minister may at any time terminate the appointment of an appointed member, if in his opinion such appointed member is unfit to continue in office or has become incapable of properly performing his functions.

(8) The Director of Civil Protection shall act as secretary of the Council.

(9) The Council shall meet as often as necessary but in no case less frequently than once in every three calendar months.

(10) The Council shall regulate its own proceedings.

Functions of
the Council.

6. (1) It shall be the function of the Council:-

(a) to formulate, direct and co-ordinate all national policy issues and practices relating to civil protection;

(b) to direct and co-ordinate within its sphere of competence the carrying out of and preparations for the civil protection tasks required in the event of a public emergency or disaster;

(c) to advise and recommend to the Minister on the appropriate person, based on his special personal qualities of decision making, competencies and experience, to act as commander and overall national co-ordinator of civil protection services and measures in any particular emergency or disaster;

(d) to approve contingency plans and associated guidelines and codes relating to public emergencies and disasters;

(e) to monitor the workings of the Department of Civil Protection;

(f) to advise the Minister on any measures that afford protection to the public in the event of a public emergency or a disaster;

(g) to encourage and support at national and local level general emergency preparedness capable of responding to all kinds of emergencies, whatever the cause;

(h) to co-ordinate and encourage the development of civil protection voluntary organisations.

(2) The Council may, with the concurrence of the Minister, from time to time establish such advisory commissions as it may consider necessary to assist it in its functions; any such commission shall have an advisory and consultative function, and its findings or recommendations shall not be binding on the Council or the Minister.

7. (1) The Minister responsible for Civil Protection may by regulation provide:-

Powers of
Minister
to make
regulations.

(a) generally for regulating civil protection matters;

(b) for the procedures to be adopted with respect to any disaster or public emergency occurring in Malta, including any investigation relating thereto;

and regulations under this paragraph may contain provisions:-

(i) requiring notice to be given of any such disasters or emergency as aforesaid at such times, in such manner and by such persons as may be specified in the regulations;

(ii) applying, without modification, for the purpose of investigations held with respect to any such accident any of the provisions of any other enactment relating to investigations in cases of disaster;

(iii) prohibiting, pending investigation, access to or interference in the area where a disaster has occurred, and authorising any person, so far as may be necessary for the purposes of an investigation, to have access to, examine, remove, take measures for the preservation of, or otherwise deal with, any such area.

(c) for establishing the objectives and provisions, directives, codes of practice and guidelines relating to preparedness and response issues;

(d) for establishing the system and requirements for civil protection planning;

(e) for determining, with the concurrence of the Minister responsible for finance, of the method and payment of compensation levels for material losses incurred by persons during an emergency in terms of the Emergency Powers Act (Cap. 178) and during a disaster as defined in this Act;

(f) for prescribing or making provision for any matter that is to be or may be prescribed under this Act;

(g) for penalties of an administrative nature.

(2) The payment of any compensation under the provision of such regulations shall be a charge upon the Consolidated Fund.

(3) Without prejudice to the powers of the Minister under the foregoing subsections of this section, every officer of the Department of Civil Protection may prohibit access to any area where a disaster or other emergency has occurred during the time that rescue operations and investigations concerning the disaster or the cause of the emergency are taking place.

Establishment
of an Assistance
and Rescue
Force.

8. (1) There is hereby established a force to be known as the Assistance and Rescue Force.

(2) The Assistance and Rescue Force shall be headed by a Chief Assistance and Rescue Officer.

(3) Before entering upon his duties an officer of the Assistance and Rescue Force shall take the oath of office according to the Schedule to this Act.

(4) The functions of the Assistance and Rescue Force shall be:-

(a) to maintain an adequate service for prompt intervention in the case of fire and rescue on land, flooding, sea salvage, rescue and anti-pollution support at sea, or any other natural or man-made disaster situation which requires the immediate assistance of a public force or special equipment;

(b) to intervene in any emergency or disaster;

(c) to carry out any of the duties assigned to it by the Director of Civil Protection.

(5) The government and discipline of the Force shall be such as may be prescribed by regulations made by the Minister under section 7 of this Act and such regulations may contain provisions concerning the recruitment to the Force and the terms and conditions of service, the discharge from and the training of the Force, including the transfer of any member thereof to any other force, as well as any other matter relating to the Force.

(6) Regulations as aforesaid may provide for the extension to the members of the Force of any one or more of the duties and powers of or competent to officers of the Police Force, subject to such modifications, adaptations and restrictions, and in such circumstances as may be specified in the regulations.

(7) (a) In the interest of public safety, public order and public health, the enlistment of every member of the Force shall require the consent of the person enlisting not to form, join or be a member of a trade union; but the members of the Force may form their own association.

(b) An association established under this subsection shall be for the purpose of enabling those of and below a rank established by the Minister to consider and bring to the notice of the competent authorities all matters affecting the welfare and professional efficiency of the members of that association, including matters concerning their hours of work, leave, pay and allowances, pensions and other conditions of service and rules of discipline in general, and for the defence of individuals in disciplinary proceedings.

(c) The statute and rules governing any association established under this subsection and any amendments thereto, shall be subject to the approval of the Minister.

(d) An association established under this subsection shall be entirely independent of, and unassociated with, any body outside the Force.

(e) Membership of an association established under this subsection shall be voluntary.

(f) No person may be a member of any such association unless he is a member of the Force.

(g) Notwithstanding the provisions of the preceding paragraph, an association established under this subsection may engage employees or advisers from outside the Force.

9. (1) The Minister may, in any national or regional disaster or emergency, or in anticipation thereof, appoint a person to act as overall Commander as provided in paragraph (c) of subsection (1) of section 6 of this Act and may revoke any such appointment.

Appointment
and powers of
the Commander.

(2) In any emergency, disaster or other operation covered by this Act, the Commander, if one has been appointed, or the Director or the highest ranking officer of the Assistance and Rescue Force present

on the scene shall have the following powers, in addition to all other powers pertaining to his office under this Act or any other law:-

(a) to order the immediate requisition of any movable or immovable thing, which is indispensably necessary in his judgement for any operation;

(b) to order the evacuation from any premises of persons and to debar any person from entering on any such premises;

(c) to enter any premises, including a private residence, at any time without the need of a warrant from any higher authority;

(d) to cause damage to private property where this is indispensably necessary to avoid any threat to the life of others, or the spreading of the effects of any event.

(3) In any of the cases mentioned in paragraphs (a), (b) and (d) of the preceding section, the owner shall have the right for compensation.

(4) The demand for any such compensation shall be made within one year from the date of the occurrence, and the Court of Magistrates in its civil jurisdiction shall be competent to hear and decide any such claim, notwithstanding any other law delimiting its jurisdiction.

Offences.

10. (1) Any person who unlawfully removes and applies for his own benefit or that of any other person any thing which is abandoned by its owner on account of any disaster, fire, or other event when the life of the owner or any other person was in jeopardy, shall be guilty of an offence and shall be liable on conviction to imprisonment for a period of not less than six months and not more than ten years.

Provided that in assessing punishment, the Court shall take into consideration not only the value of the thing, but also the circumstances of hardship to which the owner was exposed in abandoning the thing.

(2) When the offence is committed by any person who is lawfully entrusted under this Act or any other law to assist persons in danger of losing their life or their property, the punishment shall be increased by two degrees.

(3) Any person who enters without due authorisation any area delimited by officers of the Department of Civil Protection shall, for the mere fact of entering, be guilty of an offence, and shall be liable on conviction to imprisonment for a period of not less than one month and not more than six months.

(4) Any person who refuses to comply immediately with a requisition of any thing ordered under any power conferred by this Act, even if verbally communicated to him, shall be guilty of an offence and shall be liable on conviction to imprisonment for a period not exceeding three months.

(5) Any person who refuses or fails to comply with any order, even if verbally given by an officer acting within the powers of this Act, or who interferes or obstructs with operations of assistance and does not desist from his actions when warned, even verbally, shall be guilty of an offence, and shall be liable on conviction to imprisonment for a term not exceeding three months.

(6) Any person who fails to comply with any regulation issued under this Act shall be guilty of a contravention, unless the specific regulation imposes a penalty which is stated to be of an administrative nature.

(7) It shall not be a defence to a charge under this section that the person was acting as a professional person in mass communications and that the acts were intended as an exercise of the right to inform.

11. (1) The enactments listed in subsection (2) of this section are hereby repealed. Repeal of certain laws.

(2) The repealed enactments are:-

(a) The Emergency Labour Corps Act; and (Cap. 227)

(b) The Floods Relief Act. (Cap. 286)

12. Any member of the Police Force who is transferred to the Assistance and Rescue Force set up under this Act or who ceases to be a member of the Police Force immediately before, and for the purposes of, becoming a member of the Assistance and Rescue Force, shall for the purposes of any law applicable to pensions payable to members of the Police Force, be deemed to have remained in the Police Force during their period of service with the Assistance and Rescue Force, and for the purposes of such laws service with the Assistance and Rescue Force by such members shall be deemed to be service with the Police Force, and his entitlement to a pension under such laws shall be regulated accordingly. Transitory provision.

SCHEDULE

(Section 8)

**Oath of Office of Officer
in the Assistance and Rescue Force**

“I
solemnly swear/affirm that I shall faithfully execute according to law and without fear
or favour the office of* in
the Assistance and Rescue Force established by and in terms of section 8 of the Civil
Protection Act, 1999.”

* *specify here the name of the office in the Assistance and Rescue Force.*

Passed by the House of Representatives at Sitting No. 166 of the 26th October,
1999.

ANTON TABONE
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives