



Tuvalu

**CLIMATE CHANGE AND DISASTER
SURVIVAL FUND ACT 2015**



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CLIMATE CHANGE AND DISASTER SURVIVAL FUND ACT 2015

Act No.11 of 2016

AN ACT TO PROVIDE FOR THE SECURITY OF THE PEOPLE OF TUVALU AGAINST THE IMPACTS OF CLIMATE CHANGE AND NATURAL DISASTERS

Commencement [1st January, 2016]

1 Short Title

This Act may be cited as the Climate Change and Disaster Survival Fund Act 2015.

2 Commencement

This Act shall come into force on such date as the Minister by notice appoints.

3 Purpose of Act

The purpose of this Act is to legalize the establishment of the Tuvalu Climate Change and Survival Fund with which the Government will provide vital services to the people, and as a measure of response to future climate change impacts and disasters in Tuvalu.

4 Interpretation

In this Act, unless the context otherwise requires:

“**Act**” means the Climate Change and Disaster Survival Fund Act 2015

“**Account**” means the Climate Change and Disaster Survival Fund Account established under Section 12.

“Board” means the Climate Change and Survival Fund Board established under Section 8.

“Climate Change” means a change of climate, which is attributed directly or indirectly to human activity that alters the composition of the global atmosphere and which is in addition to natural climate variability observed over comparable time periods.

“Committee” means the Climate Change and Survival Fund Committee established under Section 10.

“Minister” means the Minister for the time being responsible for Climate Change

“Natural Disaster” means the actual or imminent occurrence of an event which endangers or threatens the safety or health of any communities or persons in Tuvalu, or which destroys or damages, any property in Tuvalu, arising from:

- (a) a cyclone;
- (b) a flood;
- (c) tsunami;
- (d) a drought;
- (e) an air disaster;
- (f) a maritime disaster;
- (g) a major civil accident (such as major fire or explosion);
- (h) a plague or epidemic; or
- (i) any other similar natural or man-made event,

5 Scope of Application

- (1) This Act shall apply to the Government in providing financial assistance to its citizens to adapt, recover or rehabilitate them from the devastating impacts of climate change and natural disasters.
- (2) The Minister responsible for Climate Change shall have the responsibility over the proper administration of this Act.
- (3) Where any provision of this Act conflicts with climate change and natural disaster conventions, the application of which is mandatory on Tuvalu, those conventions shall prevail but in all other respects, climate change and natural disaster issues shall be governed by the provisions of this Act and any other relevant laws that are in place.

PART II - ESTABLISHMENT AND OBJECTIVES OF THE FUND

6 Establishment

There is hereby established a Climate Change and Disaster Survival Fund, which shall have an account, accredited as the Tuvalu Survival Fund account at the National Bank of Tuvalu for the purposes specified under this Act.

7 Objective

The objective of the Tuvalu Survival Fund is to:

- (1) Provide immediate vital services to the people of Tuvalu in combating the devastating impact of climate change and natural disasters;
- (2) Allow the Government and the people of Tuvalu to respond to future climate change impacts and natural disasters in a coordinated, effective and timely manner.

PART III - TUVALU CLIMATE CHANGE AND DISASTER SURVIVAL FUND BOARD AND COMMITTEE

8 Board

- (1) There shall be a Board for the Fund which –
 - (a) is the governing body of the Fund with authority in the name of the Fund to perform and exercise the functions and powers of the Fund under this Act, and
 - (b) shall subject to this Act, be responsible for the policy, control and strategic direction and regulation of the Fund.
- (2) Constitution of the Board
 - (a) Minister for Finance and Economic Development (Chairperson);
 - (b) General Secretary of Tuvalu Red Cross; and
 - (c) Permanent Secretary for Ministry of Home Affairs.

9 Functions and Powers of Board

- (1) The Board shall be the governing body in granting approval to Assessment Reports that are submitted by the Committee for its consideration.

- (2) If the Board does not approve the recommendations or suggestions of the Committee, it shall within 7 days of its decision provide in writing the reasons for such decision.
- (3) The Board shall also submit a financial report to Cabinet on the utilization of the Fund on an annual basis.

10 Committee

- (1) There is hereby established a Climate Change and Disaster Survival Fund Committee who shall be appointed by the Minister responsible for Climate Change after consultations with Cabinet.
- (2) The Committee shall be comprised of the following:
 - (a) Secretary to Government (Chairperson)
 - (b) Director of Climate Change and Policy Unit
 - (c) Tuvalu National Council of Women
 - (d) Director of Public Works Department
 - (e) Disaster Coordinator
 - (f) Director of Rural Development
 - (g) Director of Health
 - (h) Director of Planning and Budget
 - (i) Attorney-General

11 Functions and Powers of Committee

- (1) The Committee shall have the following functions and powers:
 - (a) Assess every application for 'Request for Assistance'
 - (b) Formulate a Strategic Framework on Climate Change and Natural Disaster to serve as the basis in carrying out assessments and evaluation of damages to properties, which shall include the rate for payouts depending on the severity of the damages to properties.
 - (c) Assess impacts on biodiversity and ecosystems and social wellbeing
 - (d) The Committee shall after assessing every application for 'Request for Assistance', submit an Assessment Report to the Board for approval, which shall include the expected payout amount.
 - (e) The Committee shall submit to the National Advisory Council on Climate Change (NACCC), Natural Disaster Committee (NDC) and Cabinet a financial report on the utilization of the Fund on an annual basis.

PART III - MANAGEMENT AND OPERATIONS OF THE FUND

12 The management and operation of the Fund shall be as follows:

- (1) A bank account shall be created at the National Bank of Tuvalu namely the Tuvalu Survival Fund Account and shall be managed by 3 Trustees who shall be members of the Board.
- (2) The Government shall contribute an initial amount of \$5 million AUD into the Fund and will consider future contributions as and when it is necessary.
- (3) Donations to assist Tuvalu in its recovery from Tropical Cyclone PAM including any funding from under the Global Environmental Facility (GEF), Adaptation Fund, Green Climate Fund (GCF) shall be channelled through the Tuvalu Climate Change and Disaster Survival Fund.
- (4) The fund may be augmented by grants through Multilateral Environmental Agreements, Bilateral contributions, and donations from foreign governments, foreign organisations, Tuvaluan communities and other individual donations.
- (5) All funds specified in subsection (2) and (4) shall not be used to fund personal services, expenditures and other operating expenses of the Committee or the Board.
- (6) The balance of the climate change and disaster survival fund shall not revert to the general account.

13 Eligibility to use Fund

- (1) The Fund shall be utilised to provide for the following:
 - (a) Support activities of response to the impacts of natural disasters or which a declaration of a ‘state of emergency’ has been declared in accordance with the laws of Tuvalu.
 - (b) Help ensure security to the people of Tuvalu against climate change and natural disasters by providing financial assistance in order to:
 - (i) Provide immediate emergency relief in times of natural disasters;
 - (ii) Assist the people to recover and adapt to adverse impacts of climate change;
 - (iii) Assist the people to build back and rehabilitate;
 - (iv) Enhance resilience and protection against climate change and natural disasters;

14 Access to Fund

Citizens of Tuvalu affected by the impacts of climate change and natural disasters shall have access to the Fund through submission of a ‘Request for Assistance’.

PART IV - FINANCIAL PROVISIONS

15 Accounts and Audit

- (1) The Ministry for Finance and Economic Development shall administer the Tuvalu Survival Fund Account and the Minister for Finance and Economic Development being the Chair of the Board shall be the accounting officer.
- (2) Within a period of six months in a financial year, the Minister for Finance and Economic Development shall transmit to the Auditor-General the account showing fully the financial position of the Climate Change and Disaster Survival Fund.

16 Report on audit

- (1) The Auditor General shall prepare a report on the audit conducted under section 16 including any observations or suggestions that require attention for the enhanced management of the account.
- (2) The audit report shall be presented in Parliament for its consideration.

PART V - MISCELLANEOUS

17 Regulations

The Minister may make regulations not inconsistent with this Act prescribing all matters that are required or permitted by this Act to be prescribed in the regulations or that are necessary to be prescribed giving effect to this Act.

18 Immunity

No civil or criminal action shall lie against the Minister or any person appointed pursuant to this Act with respect to anything done or omitted to be done by him in pursuance or intended pursuance of the powers or functions conferred on him under this Act unless he has acted, or omitted to act, in bad faith and without reasonable cause.