

THE UTTAR PRADESH DISASTER MANAGEMENT ACT, 2005¹

(U. P. Act No. 20 of 2005)

[As passed by Uttar Pradesh Legislature and assented to by the Governor on August 10, 2005 and published in Uttar Pradesh *Gazette Extraordinary* on August 11, 2005.]

AN

ACT

to provide for effective management of disaster, for mitigation of effects of disaster, for administering, facilitating, coordinating and monitoring emergency relief during and after occurrence of disasters and for implementing, monitoring and coordinating measures for reconstruction and rehabilitation in the aftermath of disasters, in the State of Uttar Pradesh and for these purposes to establish the Uttar Pradesh Disaster Management Authority and to specify other agencies and for matters connected therewith or incidental thereto.

IT IS HEREBY enacted in the Fifty-sixth Year of the Republic of India as follows :—

CHAPTER-I

Preliminary

Short title, extent and commencement

1. (1) This Act may be called the Uttar Pradesh Disaster Management Act, 2005.

(2) It extends to the whole of the state of Uttar Pradesh.

(3) It shall come into force on such date as the State Government may, by notification, appoint.

Definitions

2. In this Act, unless the context otherwise requires, —

(a) “affected area” means the area declared as such under clause (a) of sub-section (2) of section 32;

(b) “Authority” means the Uttar Pradesh State Disaster Management Authority established under sub-section (1) of section 6 ;

(c) “capacity-building” means building of capacity to cope up with any disaster and includes —

(i) identification of existing resources relevant to any disaster, and resources to be acquired for the purpose of this Act ;

(ii) acquiring and creating resources, organization and training of groups in local community ; and

(iii) coordination of such training ;

(d) “Chairperson” means the Chairperson of the Authority ;

(e) “Chief Executive Officer” means the Chief Executive Officer of the Authority ;

(f) “Commissioner” means the State Relief Commissioner appointed under section 11 ;

1. For S.O.R. see at the end of this Act.

(g) “disaster” means an actual or imminent adverse unfortunate, sudden, misfortune or calamity whether natural or otherwise occurring in any part of the State which causes, or threatens to cause all or any of the following –

(i) widespread loss or damage to property both immovable and movable ; or

(ii) widespread loss of human life or injury or illness to human beings ; or

(iii) damage or degradation of environment ; and any of the effects specified in sub-clauses (i) to (iii) is such as to be beyond the capacity of the effected community to cope up with using its own resources and which disrupts the normal functioning of the community ;

(h) “disaster management” means a continuous and integrated process of planning and implementation of measures with a view to –

(i) mitigating or reducing the risk of disasters ;

(ii) mitigating the severity or consequence of disasters ;

(iii) capacity—building ;

(iv) emergency preparedness ;

(v) assessing the effects of disasters ;

(vi) providing emergency relief and rescue ; and

(vii) post-disaster rehabilitation and reconstruction .

(i) “emergency preparedness” means the state of readiness which enables stakeholders to mobilize, organize and provide relief to deal with an impending or actual disaster or the effects of a disaster ;

(j) “member” means a member of the Authority;

(k) “mitigation” means measures aimed at reducing the impact or effects of a disaster ;

(l) “prevention” means measures the object of which is to avoid the occurrence of a disaster ;

(m) “reconstruction” means repair and construction of a property undertaken after a disaster ;

(n) “regulations” means the regulations made under this Act ;

(o) “rehabilitation” means any activity the objects of which is to restore normalcy in conditions caused by a disaster ;

(p) “relief” means measures taken during or immediately after a declaration of disaster to diminish, or alleviate any suffering, pain, injury or distress or hardship caused on account of the disaster ;

(q) “stakeholder” includes —

(i) State Government ;

(II) any statutory functionary ;

(III) voluntary agencies including foreign voluntary agencies ;
and

(IV) any other person identified by the Authority ; which participate in any manner in activities related to disaster management.

CHAPTER-II

Authorities for Disaster Management

Authorities for disaster management

3. For the purposes of carrying out the objects of this Act, the following shall be the authorities, namely :—

- (a) The State Government,
- (b) The Uttar Pradesh Disaster Management Authority,
- (c) Heads of Government Departments,
- (d) Commissioner,
- (e) District Magistrate of a district,
- (f) Local authorities,
- (g) Any agency, organization or body authorized by the Authority.

CHAPTER-III

Functions of State Government

Functions of State Government

4. (1) The State Government shall ensure that all the authorities specified in section 3 and stakeholders shall take all such measures, as are necessary or expedient for the purpose of managing a disaster and mitigating its effects.

(2) In particular and without prejudice to the generality of the provisions of sub-section (1), such measures may include the following measures, namely :—

(a) ensuring that appropriate policies and guidelines are developed ;

(b) establishing a group called the Crisis Management Group and such other entities as may be necessary and such group or entity shall exercise such powers and perform such functions as may be specified by the regulations ;

(c) ensuring that the State administration and local authorities shall take into consideration the guidelines laid down by the Authority while planning its activities ;

(d) ensuring that a comprehensive communication and technology network is established and maintained ;

(e) facilitating procurement related to disaster management of materials, equipment and services in connection with the disaster management and ensuring their quality ;

(f) ensuring that disaster management plans are prepared and training for managing disaster is given ;

(g) promoting adequate risk-transfer, risk-sharing and cost-sharing mechanisms ;

(h) ensuring that adequate funds are available for disaster management ;

(i) ensuring appropriate recovery measures ; and

(j) taking such steps and issuing such directions as may be necessary to prevent escalation of the disaster or to alleviate, contain or minimize the effects of disaster.

(3) Subject to the provisions of this Act, the State Government, may in exercise of its powers and performance of its functions under this Act, issue a direction in writing to a person or authority for the purpose of avoiding an imminent damage arising out of a disaster or mitigation of its effects and such person or authority shall comply with such direction.

(4) Subject to the provisions of this Act, the State Government may in exercise of its powers and performance of its functions, under this Act suspend operation of any executive order if such executive order prevents, hinders or delays any necessary action in coping with disaster.

CHAPTER-IV

Functions of Departments of the State Government

Functions of the Departments of Government

5. (1) The Government departments of the State shall —

(a) provide assistance to the Authority, Commissioner, the District Magistrate and the local authority in setting up communication centers, drawing up contingency plans, capacity building data collection and identifying and training personnel ;

(b) carry out relief operations under the supervision of the Commissioner and the District Magistrate ;

(c) assess the damage and carry out reconstruction and rehabilitation activities in accordance with the guidelines framed by the Authority ; and

(d) take such steps and provide such assistance to the Authority, Commissioner and the District Magistrate as may be necessary for disaster management.

(2) Every department of the Government under the supervision of the Authority shall —

(a) prepare a disaster management plan setting out —

(i) the manner in which the concept and principles of disaster management shall be applied ;

(ii) roles and responsibilities of the department in respect of the state disaster management ;

(iii) roles and responsibilities of the department in respect of emergency relief and post disaster recovery and rehabilitation ;

(iv) capacity to fulfill roles and responsibilities of the department ;

(v) particulars of strategies pertaining to disaster management ; and

(vi) strategies and procedures in the event of a disaster, including measures to finance the strategies.

(b) co-ordinate preparation and the implementation of plan with other departments, local authorities, communities and stake holders ;

(c) regularly review and update the plan ; and

(d) submit to the Authority disaster management plan and any amendments thereto.

CHAPTER-V

Establishment and Constitution of the Authority

Establishment and incorporation of Authority.

6. (1) The State Government shall, by notification, establish an Authority by the name of the Uttar Pradesh Disaster Management Authority with effect from such date as may be specified in the notification.

(2) The Authority shall be a body corporate.

(3) The headquarters of the Authority shall be at such place as the State Government may, by notification specify.

(4) The Authority may, with the approval of the State Government, establish offices at such other places within or outside the State as the Authority thinks fit.

Constitution of Authority

7. (1) The Authority shall consist of Chairperson and not more than fourteen other members as follows, namely :—

(a) the Chief Minister of Uttar Pradesh, who shall be the Chairperson ;

(b) two Ministers nominated by the Chief Minister, Uttar Pradesh ;

(c) the Chief Secretary of the State ;

(d) Principal Secretary & Agriculture Production Commissioner;

(e) Principal Secretary (Revenue)

(f) Principal Secretary (Finance)

(g) Principal Secretary (Home)

(h) Principal Secretary (Energy)

(i) Principal Secretary (Urban Development)

(j) Principal Secretary (Health)

(k) Any other Secretary to be co-opted from time to time

(l) Director General of Police

(m) Relief Commissioner, who shall be the Convener/
Secretary of the Authority :

Provided that when a proclamation made under Article 356 of the Constitution is in force in the State, the Central Government may appoint three persons, in place of the Chief Minister and Ministers, to be the Chairperson and members of the Authority and the persons so appointed shall vacate their office upon the revocation or cease of operation of such proclamation.

(2) The members of the Authority shall hold office during the pleasure of the State Government and shall receive such remuneration as may be prescribed.

**Meetings of
the Authority**

8. (1) The Authority shall meet at such times and places and shall, subject to the provisions of sub-section (2), observe such rules of procedure in regard to the transaction of its business at its meetings (including quorum at such meetings) as may be provided by the regulations.

(2) Every meeting shall be presided over by the Chairperson, if he is present at the time appointed for holding the same and, if the Chairperson is absent, by the senior Minister or in his absence, by the other Minister and, in absence of the Ministers, by such one of the members present as may be chosen by the meeting to be Chairperson for the occasion.

(3) All the questions at a meeting of the Authority shall be decided by a majority of votes of the members present and voting and, in the event of an equality of votes, the Chairperson shall have and exercise a second or casting vote.

(4) (a) Every member, who is, in any way whether directly or indirectly, concerned or interested in a contract or arrangement or proposed contract or arrangement, entered into or proposed to be entered into, by or on behalf of the Authority, shall disclose the nature of his concern or interest before or at a meeting of the Authority.

(b) No member shall take any part in discussion, or vote on, any contract or arrangement entered into or to be entered into by or on behalf of the Authority if he is in any way, whether directly or indirectly, concerned or interested in the contract or arrangement :

Provided that a member shall not be deemed to be concerned or interested as aforesaid by reason of his being a shareholder holding directly and indirectly in the aggregate less than two percent of the paid-up equity share capital of a company concerned or interested in any such contract or arrangement.

**Proceedings
presumed to
be good and
valid**

9. No act or proceeding of the Authority shall be invalid merely by reason of —

(a) any vacancy therein or any defect in the constitution thereof, or

(b) any irregularity in its procedure not affecting the merit of the case.

Officer and employees of the Authority

10. (1) The State Government shall appoint an officer not below the rank or Secretary to Government to be the Chief Executive Officer of the Authority who shall perform such functions as are prescribed by regulations.

(2) The Authority may appoint such other officers and employees subordinate to the Chief Executive Officer as it considers necessary for the efficient performance of its functions.

(3) The Chief Executive Officer appointed under sub section (1) shall be entitled to receive such salary and allowances and shall be governed by such conditions of service as may be prescribed.

(4) The officers and employees appointed under sub section (2) shall be entitled to receive such salaries and allowances and shall be governed by such terms and conditions of service as determined by the regulations.

(5) The officers and employees of the Authority shall perform such functions as may be imposed upon them by a general or special order in writing issued by the Chief Executive Officer.

State Relief Commissioner

11. (1) The State Government may appoint for the whole State an officer not below the rank of Secretary to Government, to be the State Relief Commissioner.

(2) The Commissioner shall perform such functions related to disaster management as are imposed on him by or under this Act.

(3) The Commissioner shall be entitled to receive such salary and allowances and shall be governed by such conditions of service as may be prescribed.

CHAPTER-VI

Functions of the Authority

Certain functions of Authority

12. (1) Subject to the provisions of this Act, the Authority shall be primarily responsible for promoting an integrated and coordinated system of disaster management including prevention or mitigation of disaster by the State, local authorities, stake holders and communities,

(2) The Authority shall —

(a) act as the central planning, coordinating and monitoring body for disaster management and post-disaster reconstruction, rehabilitation, evaluation, and assessment ;

(b) assist the State Government in formulation of policy relating to emergency relief notwithstanding that the implementation of emergency relief shall be the responsibility of the Revenue Department and other departments of the Government ;

(c) inform the State Government and departments of Government on progress and problem in disaster management ;

(d) promote general education and awareness on disaster management, emergency planning and response ;

(e) and to matters incidental thereto.

(3) The State Government, the District Magistrates, concerned officers of the State Government and the local authorities in the State shall give such assistance and support to the Authority in performing its functions as may be required by the Authority.

**Data
Collection**

13. (1) The Authority shall take reasonable steps to collect or cause to be collected data on all aspects of disasters and disaster management and analyze such data ; and cause and conduct research and study relating to the potential effects of events that may result in disasters ;

(2) The Authority may, by notice in writing, require any person to provide such information as may be useful for the purpose of sub section (1) to the Authority within such period as may be specified in the notice.

(3) The Authority shall ensure that any information furnished by a person under sub section (2) shall not be divulged except for the purpose of performing its functions under this Act.

**Repository of
information**

14. The Authority shall act as a repository of information concerning disasters and disaster management, and shall—

(a) establish an institute ;

(b) ensure the establishment of communication links and setting up of emergency communication and early warning systems in the State ;

(c) maintain database of information required for the disaster management operations ;

(d) ensure establishment of communication links with disaster management agencies in India and other countries, including institutions performing functions similar to those of the Authority ;

(e) to exchange information, and to have access to international expertise on disaster management.

**Disaster
management
plans**

15. (1) The Authority shall develop or cause to be developed guidelines for the preparation of disaster management plans and strategies and keep them update and shall assist such departments of Government, local authorities and person, as may be specified by the Authority in preparation of plans and strategies and coordinate them.

(2) The plan preparing authority while preparing the plan under subsection (1) shall make suitable provisions in the plan after considering the following, namely :—

- (a) the types of disaster that may occur and their possible effects ;
- (b) the communities and property at risk ;
- (c) provision for appropriate prevention and mitigation strategies ;
- (d) inability to deal with disasters and promote capacity building;
- (e) the integration of strategies for prevention of disaster and mitigation of its effects with development plans, programmes and such other activities in the State ;
- (f) provision for assessment of the nature and magnitude of the effects of a disaster ;
- (g) contingency plans including plans for relief, rehabilitation and reconstruction in the event of a disaster, providing for —
 - (i) allocation of responsibilities to the various stakeholders and coordination in the carrying out their responsibilities ;
 - (ii) procurement of essential goods and providing essential services ;
 - (iii) establishment of strategic communication links ;
 - (iv) dissemination of information ; and
 - (v) other matter as may be provided for in the regulations;
- (h) any other matter required by the Authority.

(3) The Authority shall prepare, or cause to be prepared, and maintain a master plan for the State.

**Awareness
and
preparedness**

16. (1) The Authority shall promote or cause to be promoted awareness and preparedness and advise and train the community, and stakeholders with a view to increasing capacity of the community and stakeholder to deal with potential disasters by —

- (a) publishing guidelines and recommendations in this behalf ;
- (b) facilitating access to its electronic database ;
- (c) promoting disaster management capacity-building and training programmes amongst communities and other stakeholders ;
- (d) assisting in the development of methodologies for reduction of vulnerability of disasters ;
- (e) coordinating the integration of methodologies for awareness and preparedness with development plans, programmes and such other activities ; and
- (f) acting in any other manner as it deems fit in this behalf.

(2) The Authority shall formulate such policy relating to mechanisms for risk transfer including insurance for disaster preparedness as it deems necessary and implement the same or cause to be implemented.

**Recommendations
to be made to the
appropriate
authority**

17. (1) The Authority may recommend the appropriate authority to take into consideration the matters to be specified by the authority or mitigation of a disaster while preparing new plans.

(2) The Authority may inspect existing development plans made by the appropriate authority and may recommend the appropriate authority to vary the plan after considering matters for mitigation of disaster specified by the authority.

(3) The Authority may inspect the quality of construction of any building or structure in any local area in the State and where the Authority is of the opinion that the quality of construction of such building or structure is such that it may result in loss of life or damage to any property if a disaster occurs, it may recommend the local authority to take such action as may be necessary under the law to avoid such a consequence.

Relief

18. (1) The Authority shall assist the State Government in formulating policies relating to relief activities.

(2) Where the Authority is of the opinion that the relief provided by the Commissioner or the District Magistrates is not adequate the Authority shall recommend the Government to modify the norms followed by the Commissioner or the District Magistrate and, where necessary, recommend other relief measures.

**Rehabilitation and
reconstruction**

19. On the expiry of a disaster declaration, the Authority shall, where necessary, act as an agency for facilitating and coordinating rehabilitation and reconstruction activities by departments of the Government.

CHAPTER-VII

Powers and Functions of the Chief Executive Officer

**Powers and
functions of the
Chief Executive
Officer**

20. (1) The Chief Executive Officer shall exercise and perform the following powers and functions, namely :—

(a) coordinate and monitor activities relating to prevention and mitigation of disasters, including capacity-building ;

(b) coordinate and monitor rehabilitation and reconstruction activities ;

(c) monitor the progress of the preparation and updating of disaster management plans and coordinate the implementation of such plans ;

(d) prepare and submit periodically a report to the Authority on the activities undertaken by the Authority ;

(e) delegate his powers and functions to officers and employees of the Authority ;

(f) to exercise such powers and perform such functions as may be delegated by the Authority ; and

(g) to exercise such other powers and perform such other functions as may be specified by the regulations.

CHAPTER-VIII

Powers and Functions of the State Relief Commissioner

Emergency Relief

21. (1) During the period an area is an affected area, the Commissioner may issue directions to the District magistrate and the local authority having jurisdiction over the affected area to provide emergency relief in accordance with disaster management plans.

(2) For the purpose of —

- (a) assisting and protecting the community ;
- (b) providing relief to the community ;
- (c) preventing or combating disruption ; or
- (d) dealing with the destructive and other effects of the disaster, the Commissioner may —
 - (i) make arrangements for release and use of available resources;
 - (ii) control and restrict vehicular traffic to, and from and within the affected area ;
 - (iii) control and restrict the entry of any person into, movement within and departure from an affected area ;
 - (iv) remove debris ;
 - (v) conduct search and rescue operations ;
 - (vi) make arrangements for the disposal of the unclaimed dead body ;
 - (vii) provide alternative shelter ;
 - (viii) provide food, medicines and other essentials ;
 - (ix) require experts and consultants in the fields relevant to the disaster to provide relief under his direction and supervision;
 - (x) procure exclusive or preferential use of amenities as and when required ;
 - (xi) to take possession and make use of any property, vehicles, equipment, buildings and means of communication on such terms and conditions as may be prescribed ;
 - (xii) construct temporary bridges or other necessary structures;
 - (xiii) demolish unsafe structures which may endanger the public;
 - (xiv) ensure that non-governmental organizations carry out their activities in an equitable manner ;
 - (xv) disseminate information to the public to deal with the disaster;
 - (xvi) evacuate any population from any affected area for the purpose of preservation of life and for such evacuation use such force as may be necessary ; and

(xvii) authorize any person, to make any entry into any place, to open or cause to be opened, any door, gate or other barrier, if he considers such an action is necessary for preservation of life and property, if the owner or occupier is absent, or being present, refuses to open such door, gate or barrier.

(3) The Commissioner may issue such directions to any person or government agency and take such other steps as may be necessary to curtail the escalation of the disaster or to alleviate, contain or minimize the effects of disaster.

(4) The Commissioner shall keep the Authority informed of the actions taken by him generally for providing relief and particularly under sub-section (1) to (3).

**Other
functions of
Commissioner**

22. (1) The Commissioner shall —

(a) provide inputs to the Authority relating to various aspects of disaster management, such as early warnings and status of preparedness ;

(b) develop an appropriate relief implementation strategy or the State in consultation with the Authority, taking into account the unique circumstances of each district and deficiency in institutional capacity and resources of the State ;

(c) prepare, review and update state level emergency plans and guidelines and ensure that the district level plans are prepared, revised and updated ;

(d) reassess from time to time contingency plans related to disaster management ;

(e) ensure that disaster management drills are carried out periodically ; and

(f) ensure that communication systems are in order, and contingency plans provide for maximum involvement of local agencies ;

(g) exercise such powers and perform such functions as may be delegated by the Authority ;

(h) exercise such other powers and perform such other functions as may be specified by the regulations.

CHAPTER-IX

Powers and Functions of the District Magistrate

23. (1) During the period an area is an affected area the District Magistrate may issue directions to the officers of the departments of the Government and the local authority in the affected area, to provide emergency relief in accordance with the disaster management plans.

(2) The District Magistrate may —

(i) make arrangements for release and use of available resources;

(ii) control and restrict traffic to, from and within the area affected by a disaster ;

(iii) control and restrict the entry into, movement within and departure from any disaster area or part of it ;

(iv) remove debris ;

(v) conduct search and rescue operations ;

(vi) make arrangements for the disposal of the unclaimed dead body, by appropriate means ;

(vii) provide alternative shelter ;

(viii) provide food, medicines and other essentials ;

(ix) require experts and consultants in the matters relevant to the disaster to provide relief under his direction and supervision ;

(x) to take possession and make use of any property, vehicles, equipment, buildings and means of communication on such terms and conditions as may be prescribed;

(xi) procure exclusive or preferential use of amenities as and when required ;

(xii) construct temporary bridges or other structures ;

(xiii) demolish unsafe structures which may endanger the public ;

(xiv) coordinate with non-governmental organizations and ensure that such entities carry out their activities in any equitable manner;

(xv) disseminate information to the public to deal with the disaster ;

(xvi) direct and compel evacuation, of all or part of the population from any affected area for the purpose of preservation of life and for such evacuation, and for such evacuation use such force as may be necessary ;

(xvii) authorize any person, to make any entry into any place, to open or cause to be opened, any door, gate or other barrier, if he considers such an action is necessary for preservation of life and property, if the owner or occupier is absent, or being present, refuses to open such door, gate or barrier.

(3) The District Magistrate may exercise the powers contained in sub-section (2) to the extent only that this is necessary for the purpose of —

(a) assisting and protecting the community ;

(b) providing relief to the community ;

(c) preventing or combating disruption ; or

(d) dealing with the destructive and other effects of the disaster.

(4) The District Magistrate may issue such directions to any person or government agency and take such other steps, as may be necessary to curtail the escalation of the disaster or to alleviate, contain or minimize the effects of disaster.

24. (1) District Magistrate shall, —

(a) ensure that actions for prevention of a disaster or mitigation of its effects or preparedness to cope up with such effects are carried out in accordance with guidelines as may be prescribed ;

(b) provide inputs to Authority relating to various aspects of disaster management, such as early warnings and status of preparedness ;

(c) ensure that officials in the district acquire the knowledge to deal with disaster management ;

(d) ensure that district disaster management plans are prepared, revised and updated ;

(e) facilitate and, coordinate with, local Government bodies to ensure that pre-disaster and disaster management activities in the district are carried out ;

(f) facilitate community training, awareness programmes and the installation of emergency facilities with the support of local administration, non-governmental organizations, and the private sector;

(g) establish inter-department coordination on matters related to disaster management ;

(h) review emergency plans, and guidelines ;

(i) ensure that local authorities in the district are involved in developing their own mitigation strategies ;

(j) ensure linkage between disaster management activities and planning ;

(k) ensure that communication systems are in order ;

(l) ensure that firefighting equipments and other equipments related to disaster management are so maintained as to be ready for use;

(m) coordinate the activities of reconstruction and rehabilitation in the district ;

(n) ensure that disaster management drills are carried out periodically ;

(o) assist the Authority in monitoring the progress and outcome of efforts for reconstruction and rehabilitation ;

(p) exercise such powers and perform such functions as may be delegated by the State Government, the Authority and the Commissioner ;

(q) exercise such other powers and perform such other functions as may be prescribed.

CHAPTER-X

Functions of Local Authorities

25. (1) For the purpose of disaster management, local authority shall, subject to such directions as the Authority may give and under the supervision of the District Magistrate.

(a) assist the Authority, the Commissioner and the District Magistrate ;

(b) ensure that the staff of the local authority is trained ;

(c) ensure that all resources related to disaster management are so maintained as to be ready for use ;

(d) ensure that all buildings and other structures in the local area comply with the specifications laid down in this behalf by the departments of Government and the Authority ;

(e) carry out relief operations in the affected area subject to directions of the Commissioner ;

(f) carry out reconstruction and rehabilitation activities in accordance with the guidelines framed by the Authority ;

(g) prepare a disaster management plan setting out the following, namely :—

(i) the manner in which the concept and principles of disaster management are to be applied in local area ;

(ii) role and responsibilities of the local authority in the terms of the disaster management plan of the State ;

(iii) capacity of the local authority to fulfill its role and responsibilities ;

(iv) particulars of disaster management strategies ; and

(v) contingency strategies and emergency procedures in the event of a disaster, including measures to finance the strategies.

(h) coordinate the preparation and the implementation of plan with those of the organizations of the State and stakeholders ;

(i) regularly review and update the plan.

(j) conduct disaster management drills periodically ; and

(k) provide such assistance to the Authority, the Commissioner and the District Magistrate and take such other steps as may be necessary for disaster management.

(2) Each local authority shall submit to the Authority and the Commissioner a copy of its disaster management plan proposed under sub-section (1) and any amendment thereto.

26. (1) Each department of the Government in a district shall prepare a disaster management plan for the district and the District Magistrate shall ensure that such plans are integrated into the disaster management plan for the whole of the district.

(2) The department of Government while preparing a plan under subsection (1) —

(a) anticipate the types of disaster that may occur in the district and their possible effects ;

(b) identify the communities and property at risk ;

(c) provide for appropriate prevention and mitigation strategies ;

(d) identify the inability to deal with possible disasters and promote capacity building ;

(e) facilities maximum emergency preparedness ; and

(f) keep contingency plans and prescribed emergency procedures in the event of a disaster, providing for, —

(i) allocation of responsibilities to the various stakeholders and coordination in the carrying out of their responsibilities ;

(ii) prompt disaster response and relief ;

(iii) procurement of essential goods and the providing of essential services ;

(iv) establishment of strategic communication links ;

(v) the dissemination of information ; and

(vi) such other matters as may be provided for in the regulations and any other matters required by the District Magistrate.

(3) A department of the Government in the district shall subject to the supervision of the District Magistrate —

(a) prepare a disaster management plan setting out the following, namely :—

(i) the manner in which the concept and principles of disaster management are to be applied in the district ;

(ii) role and responsibilities of the department of Government in terms of the disaster management plan of the State ;

(iii) role and responsibilities of the department of Government regarding emergency relief and post disaster recovery and rehabilitation;

(iv) capacity of the department of Government to fulfill its roles and responsibilities

(v) particulars of disaster management strategies ; and ;

(vi) contingency strategies and emergency procedures in the event of a disaster, including measures to finance the strategies ;

(b) coordinate the preparation the implementation of its plan with those of other organizations of the State, communities and other stakeholders ;

(c) regularly review and update the plan ; and

(d) submit a copy of its disaster management plan, and of any amendment thereto to the Deputy Commissioner.

(4) The District Magistrate shall submit a copy of the district disaster management plan, and of any amendment thereto to the Authority and the Commissioner.

(5) Each department of the Government shall be responsible for effective implementation of the plans drawn up in this behalf.

CHAPTER-XI

Duties of Police Force, Home Guards, Civil Defence and Fire Services

27. (1) Where an area is declared under clause (a) of sub-section (2) of section 32 as an affected area, the members of —

- (a) police force,
- (b) home guards,
- (c) civil defense, and
- (d) fire services.

shall perform the following functions under the supervision of the Commissioner and the District Magistrate, namely :—

- (i) giving of warning ;
- (ii) carrying out search and rescue operations, and
- (iii) carrying relief and rehabilitation operations.

(2) If a disaster occurs in any area, the senior most officer form amongst the members of organization specified in clauses (a) to (e) and of a local authority and department of the Government in such area shall report to the District Magistrate and carry out nay instructions which the District Magistrate may issue for providing emergency relief.

(3) The department of the Government in the State shall generally carry out the functions specified in its disaster management plan as directed by the District Magistrate and in particular —

- (a) ensure that the communication system is in order, which shall be made available, free of charge, for being used for transmission and receipt of messages in connection with a disaster ;
- (b) identify the personnel and provide adequate training for the purposes of disaster management so that the services of such personnel are readily available ;
- (c) conduct disaster management drills periodically and ;
- (d) provide such assistance to the Authority, the Commissioner and the District Magistrate and take such other steps as may be necessary for disaster management.

CHAPTER-XII

Duties of Communities, Private Sector Enterprises and Other Agencies or Persons

28. Each community group and each youth organization such as the National Cadet Corps, National Service Scheme, Nehru Youth Kendra may —

- (a) assist the State Government, the Authority, the Commissioner and the District Magistrate in all disaster management activities ;
- (b) participate in capacity-building, vulnerability reduction programmes and training activities ;
- (c) assist in relief operations under the supervision of the Commissioner and the District Magistrate,
- (d) assist in conducting detailed damage assessment and in carrying out reconstruction and rehabilitation activities in accordance with the guidelines framed by the Authority ; and
- (e) provide such assistance to the Authority, the Commissioner and the District Magistrate and take such other steps as may be necessary for disaster management.

29. (1) Each Factory as defined under the Factories Act 1948, shall —

- (a) assist the State Government, the Commissioner and the District Magistrate in all disaster management activities ;
- (b) ensure that their staff are adequately trained ;
- (c) ensure that all necessary resources are in a ready-to-use state;
- (d) ensure that its buildings and other structures are in compliance with all specifications stipulated by the departments of the Government and the Authority ;
- (e) carry out relief operation under the supervision of the Commissioner and the District Magistrate ;
- (f) assist in conducting damage assessment and in carrying out reconstruction and rehabilitation activities in accordance with the guidelines framed by the Authority ;
- (g) prepare a disaster management plan in conformity with the other disaster management plans of local authorities, departments of Government having regard to the guidelines laid down in this behalf by the Authority ;
- (h) take all other steps and provide such assistance to the Authority, the Commissioner and the District Magistrate and take such other steps as may be necessary for disaster management.

(2) Each factory shall be responsible for effective implementation of the plan drawn up by it in this behalf.

(3) Each private and public sector entity shall provide assistance to the Authority, the Commissioner, the District Magistrate and take such other steps as may be necessary for disaster management.

30. All voluntary agencies, including non-governmental organizations, which desire to participate in disaster management activities may, —

(a) participate in capacity-building, vulnerability reduction programmes and training activities ;

(b) assist in relief operations under the supervision of the Government, the Commissioner and the District Magistrate ;

(c) assist in assessing damage and in carrying out reconstruction and rehabilitation activities in accordance with the guidelines framed by the Authority ;

(d) provide such assistance to the Authority, the Commissioner and the District Magistrate as may be necessary for effective disaster management.

31. It shall be the duty of every citizen to assist the Commissioner, the District Magistrate or such other person entrusted with or engaged in disaster management whenever his aid is demanded generally for the purpose of disaster management and particularly for the following purposes, namely :—

- (a) prevention,
- (b) response,
- (c) warning,
- (d) emergency operation,
- (e) evacuation, and
- (f) recovery.

CHAPTER-XIII

Declaration of Area as Disaster Prone Area or Disaster Affected Area

32. (1) Where there is threat of an impending disaster or where a disaster has occurred —

(a) in an area spread over more than one district, the Commissioner, and

(b) in an area restricted to a district, the District Magistrate may immediately make a report to that effect to the State Government.

(2)(a) If the State Government, on the report of the Commissioner or of the District Magistrate under sub-section (1) or otherwise, is of the opinion that there is a threat of an impending disaster or that a disaster has occurred in an area of the State and

that it is expedient, for the purposes of preventing such disaster or of coping with its effects, it may, by notification published in the *Official Gazette* and in any one or more newspapers having widest circulation in the area declare such area to be disaster prone area or disaster affected area (hereinafter in this section referred to as “the affected area”).

(b) Where the State Government decides not to make declaration under clause (a), it shall send a communication accordingly to the Commissioner or, as the case may be, the District Magistrate.

(3) A notification issued under section (2) in respect of an area shall specify the period not exceeding fifteen days during which the area shall, for the purposes of this Act, be the affected area :

Provided that the State Government may extend such period from time to time by any period not exceeding fifteen days at any one time, if the State Government, having regard to a report made in that behalf by the Commissioner or, as the case may be, the District Magistrate or otherwise, is of the opinion that it is expedient to do so.

(4) During the period an area is an “affected area” —

(a) the Authority shall perform or cause to be performed in such area functions related to —

(i) prevention of disaster or

(ii) (a) mitigation of effects of disaster,

(b) facilitating, coordinating and monitoring emergency relief, and

(c) monitoring and coordinating reconstruction and rehabilitation and, such other functions as are prescribed by or under this Act or as are supplemental, incidental or consequential to the aforesaid functions,

(d) Where the affected area is spread over more than one district, the Commissioner and where the affected area is restricted to a district, the District Magistrate shall perform such of the functions related to disaster management as are imposed on him by or under this Act,

(5) (a) Where the Commissioner or the District Magistrate makes a report under sub-section (1), he shall commence performing the necessary functions imposed on him by or under this Act from the time he makes a report and

(b) he shall cease to perform the functions —

(i) where an area is declared under clause (a) of sub-section (2) as the affected area for the period specified under subsection (3), on the expiry of such period, or

(ii) Where such period is extended from time to time under the proviso in the said sub-section (3), on the expiry of the period last extended or

(iii) where an area is not so declared, on the receipt of a communication to that effect from the State Government under clause (b) of sub-section (2).

(6) The Authority, the Commissioner, the District Magistrate and all other agencies, shall cease to perform their functions in the affected area, on the expiry of the period referred to in sub-clause (i) or (ii) of clause (b) of sub-section (5).

CHAPTER-XIV

Finance, Accounts, Audit and Reports

33. (1) The Authority shall have its own fund called the Disaster Management Fund and all receipts of the Authority shall be carried thereto and all payments by the Authority shall be made there from.

(2) The Authority may accept grants, subventions, donations and gifts from the Central or State Government or a local authority or any individual or body, whether incorporated or not, for the purposes of this Act.

(3) The moneys form the fund may be applied in payment of —

(i) expenses incurred by the Authority in performing its functions under this Act,

(ii) remuneration to members,

(iii) salaries and allowances to officers and employees of the Authority,

(iv) expenses for such other purposes of the Act as may be prescribed.

(4) (a) All moneys belonging to the fund of the Authority shall be deposited in such bank as the State Government may, by general or special or special order, direct.

(b) Where the amount in the fund is not required to be applied immediately or at an early date for the purposes of this Act, it may be invested in any of the securities specified in clause (a), (b), (bb), (c) or (d) of section 20 of the Indian Trusts Act, 1882.

(c) Any interest earned on such deposits and investment shall be credited to the fund.

34. The Authority may, with the previous approval of the State Government, borrow money in the open market or otherwise for the purpose of carrying out its functions under this Act.

35. (1) (a) The Authority shall, by such date in each year as may be prescribed, submit to the State Government for approval a budget in the prescribed form for the next financial year, showing the estimated receipts and expenditure, and the sums which would be required from the State Government during that financial year.

(b) If any sum granted by the State Government remains wholly or partly unspent in any financial year, the unspent sum may be carried forward to the next financial year and taken into account in determining the sum to be provided by the State Government for that year.

(2) No sum shall be expended by or on behalf of the Authority unless the expenditure is covered by provision in the budget approved by the State Government.

36. (1) The account of the Authority shall be prepared and maintained in such form and manner as may be prescribed.

(2) The Authority shall cause to be prepared for each financial year an annual statement of accounts in such form as may be prescribed.

(3) The accounts of the Authority shall be audited by an auditor duly qualified to act as an auditor of companies under section 226 of the Companies Act, 1956.

(4) The said auditor shall be appointed by the Authority.

(5) Every auditor appointed to audit the accounts of the Authority under this Act shall have a right to demand the production of books of accounts, connected vouchers and other documents and papers, to inspect the offices of the Authority and to require such information from the Authority as he may think necessary for performance of his duty as an auditor.

(6) The auditor shall send a copy of his report together with an audited copy of accounts to the Authority which shall, as soon as may be after the receipt of the audit report, forward the same to the State Government.

(7) The State Government shall, as soon as may be after the receipt of the audit report under sub-section (6), cause the same to be laid before the State Legislature.

37. (1) The Authority shall, once in every year, prepare in such form and at such time of the year as may be prescribed, —

(a) an annual report giving a full, true and fair account of its activities during the previous year and

(b) programme of work likely to be undertaken by the Authority in the next year, and a copy of such report shall be forwarded to the State Government.

(2) The State Government shall, as soon as may be after the receipt of the annual report under sub-section (1), cause the same to be laid before the State Legislature.

(3) In addition, the accounts of the Authority shall also be subject to audit by the Accountant General, Uttar Pradesh.

CHAPTER-XV

Offence and Penalties

38. (1) whoever —

(a) without reasonable cause prevents or obstructs any officer of the State Government or of local authority or of the Authority or the Commissioner or the District Magistrate from carrying out functions under this Act ; or

(b) without reasonable cause refuses to comply with the direction given by an officer of the State Government or the Authority or the Commissioner or the District Magistrate while carrying out his functions under this Act ; or

(c) falsely predicts the occurrence of a disaster without any scientific basis and thereby creates panic in the community ; or

(d) makes a false claim for assistance for reconstruction or repair from any Officer of the State Government or Authority or the Commissioner or the District Magistrate, shall on conviction be punishable with imprisonment for a term which may extend to six months or with fine which may extend to ten thousand rupees or with both.

39. (1) No Magistrate shall take cognizance of an offence under section 38 except on a complaint in writing made by an Officer of the Authority generally or specially authorized in this behalf or the Commissioner or the District Magistrate.

(2) Notwithstanding anything contained in section 200 of the Code of Criminal Procedure 1973 it shall not be necessary in respect of the offence referred to in subsection (1) to examine the authorized officer of the Authority the Commissioner or the District Magistrate when the complaint is presented in writing.

40. (1) Where an offence under this Act has been committed by a company, every person who, at the time the offence is committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided in this Act, if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company 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 director, manager, secretary or other officer of the company, such

director, manager, secretary or other officer of the company shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation — For the purpose of this section —

(a) “company” means a body corporate and includes a company as defined under the Companies Act, 1956, a firm or other association of individuals ; and

(b) “director” in relation to a firm means a partner in the firm.

CHAPTER—XVI

Miscellaneous

41. (1) The Chief Executive Officer, the Commissioner or the District Magistrate, generally or specially authorized by the State Government in this behalf, may, at all reasonable times, enter upon any land and there do such things as may be reasonably necessary for the purpose of lawfully performing functions imposed upon them by or under this Act.

(2) Any officer or employee of the Authority, generally or specially authorized by it in this behalf, may, at all reasonable times, enter upon any land and there do such things as may be reasonably necessary for the purpose of lawfully carrying out any of the functions imposed upon him under this Act.

42. (1) The Authority may, by a general or special order in writing, delegate to the Chief Executive Officer, the Commissioner, the District Magistrate or any other officer such of its functions under this Act as may be specified in the order.

(2) The Authority may, by a general or special order in writing, form one or more committees consisting of its members and delegate to such committee such of the functions of the Authority as may be specified in the order.

(3) The Commissioner may, by an order in writing, delegate to any person such of the functions imposed on him by or under this Act as may be specified in the order.

(4) The District Magistrate may, by an order in writing, delegate to the Additional District Magistrate or any other person such of the functions imposed on him by or under this Act as may be specified in the order.

(5) An order under sub-section (1), (3) or (4) may specify the conditions subject to which the functions specified therein may be performed.

43. (1) In the performance of its functions under this Act, the Authority shall be bound by such directions on questions of policy as the State Government may give in writing to it from time to time :

Provided that the Authority shall be given an opportunity to express its views before any direction is given under this sub section.

(2) The decision of the State Government, whether a question is one of policy or not, shall be final.

44. (1) The Authority, the Commissioner or the District Magistrate for the purpose of performing functions under this Act and for reasons to be recorded in writing issue an order directing a person to do or abstain from doing a specified thing within the affected areas in which the emergency relief measures are being undertaken.

(2) Any person on receipt of such order shall comply with the same.

45. Every member, the Chief Executive Officer, the Commissioner and every officer and employee of the Authority shall, when acting or purporting to act in pursuance of the provisions of this Act or of any rule or regulation made there under, be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

46. No suit, prosecution or other legal proceeding shall lie against the Authority or any member or officer or employee of the Authority or the Chief Executive Officer, the Commissioner or the District Magistrate for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act or of any rule or regulation or order made there-under.

47. (1) The Authority may, with the previous approval of the State Government, by notification make regulations not inconsistent with the Act and the rules made there under, for enabling it to perform its functions under this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may be made to provide for all or any of the matters expressly required or allowed by this Act to be specified by regulations.

48. (1) If any difficulty arises in giving effect to the provisions of this Act, the State Government may, by order published in the *Gazette*, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty :

Provided that no such order shall be made after the expiry of three years from the commencement of this Act.

(2) Every order made under sub section (1) shall be laid, as soon as may be, after it is made, before the State Legislature.

49. The Authority, its officers and employees, the Chief Executive Officer, the Commissioner and the District Magistrate shall perform functions imposed by or under this Act in addition to and not in derogation of functions performed by the State Government or any of its officers in pursuance of the provisions of any law for the time being in force or in exercise of the executive powers of the State for the

[The Uttar Pradesh Disaster Management Act, 2005]

for the prevention of occurrence of disasters, mitigation of effects of disaster, facilitating, coordinating and monitoring emergency relief and monitoring and coordinating measures for reconstruction and rehabilitation in the aftermath of the disasters in the State or in relation thereto.

STATEMENT OF OBJECTS AND REASONS

With a view to promoting an integrated and coordinated system of disaster management including prevention of disaster by the State, local authorities, stakeholders and community it has been decided to make a law to provide for the establishment of an Authority to act as the central planning coordinating and monitoring body for disaster management and post disaster reconstruction, rehabilitation, evaluation and assessment, to assist the State Government in formulation of policy relating to emergency relief, to inform the State Government and its departments on progress and problems in disaster management and to promote general education, capacity building and awareness on disaster management, emergency planning and response and for matters connected therewith or incident thereto.

The Uttar Pradesh Disaster Management Bill, 2005 is introduced accordingly.

