



**PILOTING OF THE DISASTER RISK MANAGEMENT (AMENDMENT) ACT
2021**

**By Hon. DESMOND MCKENZIE
MINISTER OF LOCAL GOVERNMENT AND RURAL DEVELOPMENT**

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- Madame Speaker, it has been just over one year since the Coronavirus pandemic made an unwelcome arrival in Jamaica. Since March 10, 2020, the Government has employed the Disaster Risk Management Act as the primary legislative tool to manage this public health crisis.
 - In this period, many lessons have been learned about the efficiency of this law in relation to the Government's priority of returning our country to full productivity and social activity. One of these lessons Madame Speaker is an unfortunate one. We have learned that while many of our resident citizens, visiting Jamaicans and overseas guests respect the Orders issued under the Act to safeguard public health, there are still way too many who continue to demonstrate, and in some cases encourage total disregard for their lives and the lives of others.

- This reality has also shown that the Disaster Risk Management Act requires amendment, to ensure that the Government of Jamaica can swiftly and comprehensively respond to any emergency, as well as to introduce a specific, enforceable system of sanctions against those who offend against the public health protocols.
- With those remarks Madame Speaker, I will now move the Disaster Risk Management (Amendment) Bill clause by clause.
- **Clause 1** identifies the Bill and states that it should be read as one with the original Disaster Risk Management Act.
- **Clause 2** is amended, to expand the categories of persons who are defined as “Authorized Officers” under the Act. There are seven such categories, which include the Municipal Police, the Chief Executive Officer of the Passport, Immigration and Citizenship Agency, the Commissioner of Customs, and the Senior Director in the Technical Services Department in the Ministry responsible for Local Government.

- Clause 2 also contains six critical changes to some of the definitions of categories of disaster in the principal Act.
- By way of example Madame Speaker, the definition of the term “disaster” has been expanded to include the specific terms “hazardous materials incident”, “pandemic” and “nuclear or radiation emergency.” These terms, as well as others including “environment”, “exposure” and “hazard” are also given specific meanings in Clause 2.
- Sub-Clause 1 of **Clause 26**, which deals with the Declaration of a Disaster Area, is amended to make it clear that the Office of Disaster Preparedness and Emergency Management (ODPEM) can report the threat of any type of disaster to the Minister of Local Government the moment it is apparent. Sub-section 5 is also amended to confirm the authority of any Authorized Officer, employee of ODPEM or any other person authorized in writing by the Director-General of the Agency, to enter premises to ensure compliance with the provisions of the Act.

- **Clause 27** Madame Speaker, is amended to give an Authorized Officer or other authorized person who is enforcing compliance, the authority **and the option** to warn a person or persons that failure to comply, violates sub-clause **52(1)(b)** of the Act. This is important as currently, an Authorized Officer cannot proceed to prosecute a breach of the Act without first warning the offender. With this amendment, persons can be prosecuted for breaches without a formal warning being given.
- I now move to **Clause 52**, which is amended to include a structure of **Offences and Penalties, including Fixed Penalties** in relation to the Orders made under the Act. This Clause specifies through the **Fifth Schedule**, the procedure to be applied when a Constable deems that an offence has been committed. This includes the serving of a formal Notice, which is essentially a ticket, that specifies the details surrounding the offence. **The Notice also offers the chance of paying a fixed penalty for the offence within a specified period of time, failing which the notice becomes a summons to appear in court to answer to the charge.**

- Importantly also, these provisions reflect fairness, as a minimum of thirty days must pass between the date the notice is issued, and the date that the fixed penalty is to be paid.
- Additionally, anyone who has to face the courts for failing to pay the penalty, will not be liable for conviction for the alleged offence if the fixed penalty is paid before a final judgment of the case is delivered. In every instance Madame Speaker, the fines are to be paid at any Collectorate, or through the website of Tax Administration Jamaica. The Form of the Notice is also displayed in the Schedule.
- Clause 52 also contains the **Sixth Schedule**, which addresses the list of fixed penalties for breaches. **This list has ten levels, or Tiers of fixed penalties, which range from \$3,000 for first level offences, to \$500,000 for offences at the tenth level. There are 40 offences specified that attract these fixed penalties.**
- Madame Speaker, I want to give the House and the country a clear insight into the structure of these penalties.

- For example: **If you fail to wear a mask in public, do not maintain the 6-foot social distancing rule, or breach the protocols governing public transportation,** you have committed an offence, and if the police serve you a Notice, the fixed penalty is **J\$5,000.**
- **If you fail to stay in an abode or place of residence during a curfew,** the fixed penalty is **\$10,000.** If a gym is operated outside of the time specified, or small outdoor events are held in breach of the Order, the fixed penalty is **\$20,000.**
- Madame Speaker, **any person who normally resides in Jamaica, and on returning to the the island from overseas fails or refuses to remain in quarantine or to obey any other direction or order,** is liable for a fine of **\$25,000.** **If a person who does not normally reside in Jamaica, or who is a tourist, refuses to stay in the Resilient Corridor as required,** the penalty is **\$30,000.**
- **Any person who has COVID-19 and refuses to stay in quarantine,** is subject to a fine of **\$50,000,** and the same amount applies to any employer who does not comply with the specified workplace requirements.
- Madame Speaker, **for the offence of conducting funerals, burials, weddings or any other worship services in contravention of any Orders in force,** the fixed penalty is **\$100,000.**

- This penalty also applies where any bar operates outside of the times specified, and does not have the necessary licences under the Spirit Licence Act.
- Anyone who operates a Hotel or resort cottage that is not licensed under the Tourist Board Act, certified by the Tourism Product Development Company or located within the Resilient Corridor, is subject to a fixed penalty of **\$500,000**.
- This fine also applies to any hotel or resort that breaches the COVID-19 protocols, **and to any nightclub, amusement park or water attraction that is operated when it is ordered closed.** Any company in the **Business Process Outsourcing sector** that is not certified by the Director-General of ODPEM, or which breaches the COVID-19 operational protocols is also subject to this fine.
- With respect to the matter of these fixed penalties or fines, I wish to make one thing very clear. **These penalties do not replace the sanctions for offences that are already in the principal Disaster Risk Management Act. Anyone who commits an offence, and who is brought to court and convicted before a Resident Magistrate, is still liable to a maximum fine of One Million Dollars or to imprisonment not exceeding one year.**

- Clause 52a is a new sub-clause, which prescribes the manner in which a Notice is to be served on a person deemed to have committed a breach. The Notice may be served personally, by registered mail or electronically.
- The Second Schedule to the Act has been changed Madame Speaker, to add the Mayor of each Municipal Corporation and the Chief Medical Officer in the Ministry of Health, to the membership of the National Disaster Risk Management Council.
- Madame Speaker, these amendments to the Disaster Risk Management Act are clear, and they have been crafted in pursuit of clear objectives. The circumstances in which the Act can be invoked have been expanded, to ensure that the Government has at all times, the legislative authority within which it can respond swiftly to challenges and secure the interests of the population. At the same time, these changes set out clear sanctions for those who undermine the mission of balancing lives and livelihoods through personal and other forms of irresponsibility, and who, at this point in time, are hindering the effort to save lives, in the face of rising numbers of infections and hospitalizations.

- I therefore ask Madame Speaker, that the **Disaster Risk Management (Amendment) Act, 2021**, be read a second time.

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