

REPUBLIC  
OF  
SOUTH AFRICA



REPUBLIEK  
VAN  
SUID-AFRIKA

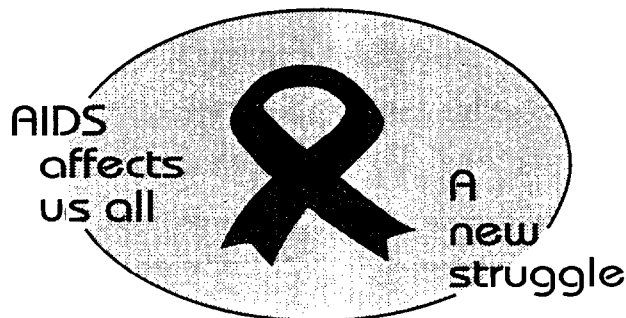
# Government Gazette Staatskoerant

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PRETORIA, 21 JANUARY  
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No. 20814

**We all have the power to prevent AIDS**



**Prevention is the cure**

**AIDS  
HELPLINE**

**10800012322**

DEPARTMENT OF HEALTH

**G E N E R A L N O T I C E**

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NOTICE 285 OF 2000

DEPARTMENT OF PROVINCIAL AND LOCAL GOVERNMENT

DISASTER MANAGEMENT BILL, 2000

1. **1, Fholisani Sydney Mufamadi, Minister of Provincial and Local Government, under section 1 54 of the Constitution, hereby publish the Disaster Management Bill, 2000, for public comment.**
2. **Comments must please be submitted in writing to –**  
  
The Director-General  
Department of Provincial and Local Government  
Private Bag X 804  
PRETORIA  
0001  
  
**Attention: Mr GFC Kilian**
3. Comments may also be faxed to facsimile number (012) 3340606 at the above address.
4. Comments must be received by not later than 18 February 2000.

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**BILL**

To provide for an integrated, **co-ordinated** and common approach to disaster management by **all** spheres of government; for a disaster management policy that focuses on preventing or reducing **the** risk of disasters, mitigating the severity of disasters, emergency preparedness, a **rapid** and effective response to disasters and post-disaster recovery; for the establishment of a national disaster management **centre** and provincial and municipal disaster management offices; and to provide for incidental matters.

BE IT ENACTED by the Parliament of the Republic of South **Africa**, as follows:

**Definitions**

1. In **this** Act, unless the context indicates otherwise –

“**Centre**” means the Disaster Management **Centre** established by section 8 (1);

“**Department**” means the department of state referred to in section 8 (2);

“**delegation**”, in relation to a duty, includes an instruction to perform the duty, and “**delegate**” includes a corresponding meaning;

“**disaster**” means a progressive or sudden, widespread or localised, natural or **human-**caused occurrence causing a catastrophic **situation** whereby the day-to-day patterns of life are, or are threatened to be, disrupted and people are, or **are** threatened to be, plunged into helplessness and suffering;

“disaster **management**” means a continuous and integrated multi-sectoral, multi-disciplinary process of planning, and **implementation** of measures, aimed at –

- (a) preventing or reducing **the risk of disasters**;
- (b) mitigating the severity or **consequences** of disasters;
- (c) emergency preparedness;
- (d) a rapid **and** effective response to disasters; and
- (e) post-disaster **recovery** and rehabilitation;

“district **municipality**” means a municipality that has municipal executive and legislative authority in an area that includes more than one **municipality**, and which is described in section 155 (1) of **the** Constitution as a category C municipality;

“emergency preparedness means a state of readiness which enables organs of state, and other institutions involved **in** disaster management, the private sector, **communities** and individuals to mobilise, organise, and provide relief measures to deal with **an** impending or current disaster or the effects of a **disaster**;

“integrated development plan”, in relation to a municipality, means a plan envisaged in section 22 of the local Government: Municipal Systems Act, 2000 (Act No . . . . of **2000**);

“local disaster” means a disaster classified as a local disaster in terms of section 23;

“**local** municipality” means a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls, and which is described in section 155 (1) of the Constitution as a category B municipality;

“MEC” means a member of the Executive Council of a province;

“metropolitan **municipality**” means a municipality that has exclusive **executive** and legislative authority in its **area, and which** is described in **section 155 (1)** of the Constitution as a category A **municipality**;

“Minister” means the Cabinet member designated **in** terms of section 3 to administer this Act;

“mitigation”, in relation to a disaster, means measures *aimed* at reducing the impact or effects of a disaster;

“municipal disaster management **office**” means an office established **in** the **administration** of a **municipality in** terms of section 38;

“municipal legislation” means municipal by-laws or any subordinate legislation made **in** terms of a by-law;

“(municipal manager” means a person appointed **in** terms of section 82 of the Local Government: **Municipal Structures Act, 1998 (Act No. 117 of 1998)**;

“municipal organ of state” means -

- (a) a municipality;
- (b) a department or other unit in the administration of a municipality; or
- (c) a municipal public entity as defined in section 1 of the Local Government: **Municipal Finance Management Act, 2000 (Act No. of 2000)**;

“national disaster” means a disaster classified as a national disaster in terms of section 23;

“national disaster management framework” means the national disaster management framework established **in** terms of section 5;

“national organ of state” means a national department or national public entity as defined in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

“organ of state” means a national, provincial or municipal organ of state;

“post-disaster recovery and rehabilitation” means efforts aimed at restoring normality in conditions caused by a disaster;

“prescribe” means prescribe by regulation in terms of section 48;

“prevention”, in relation to a disaster, means measures aimed at stopping a disaster from occurring or preventing an occurrence from becoming a disaster;

“provincial disaster” means a disaster classified as a provincial disaster in terms of section 23;

“provincial disaster management office” means an office established in the administration of a province in terms of section 28;

“provincial organ of state” means a provincial department or provincial public entity as defined in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

“response”, in relation to a disaster, means measures **taken** during or immediately **after** a disaster **in** order to bring **relief** to people and communities affected by the disaster;

“statutory functionary” means a person performing a function or exercising a power assigned to that person by national, provincial or municipal legislation;

“this Act” includes any regulations made **in** terms of **section 48**.

### Application of Act

2. **This Act** does not apply to an occurrence falling within the definition of “disaster” in section 1 –
- (a) if, and from the date on which, a state of emergency is declared in terms of the State of Emergency Act, 1995 (Act No. 86 of 1995), to deal with that occurrence; or
  - (b) if that occurrence is an accident of a kind for which specific legislation has been enacted and that legislation is aimed at reducing the risk of such accidents and addressing the consequences of such accidents when they do occur.

### Administration of Act

3. This Act is administered by a Cabinet member designated by the President.

## CHAPTER 1

### INTER-GOVERNMENTAL STRUCTURES AND POLICY FRAMEWORK

#### Inter-governmental Committee on Disaster Management

4. (1) The President must appoint an inter-governmental Committee on Disaster Management **consisting** of –
- (a) Cabinet members involved in disaster management;
  - (b) members of provincial Executive Councils involved **in** disaster management **in** the provinces; and
  - (c) representatives of organised local government.
- (2) The **Minister** is the chairperson of the Committee.
- (3) The Committee must **advise** and make recommendations to –
- (a) the Cabinet on **issues** concerning disaster management; and
  - (b) the **Minister** on the establishment of a national framework for disaster management aimed at ensuring an integrated and common approach to disaster
-

management in the Republic by all national, provincial and municipal organs of state, statutory functionaries, non-governmental institutions involved in disaster management, the private sector, communities and individuals.

#### National disaster management framework

5. (1) The **Minister**, by notice in the *Government Gazette* –
- (a) must establish a national disaster management framework taking into account any recommendations of the Inter-governmental Committee on Disaster Management in terms of section 4; and
  - (b) may from time to time amend the national disaster management framework.

(2) Before establishing or amending the national disaster management framework, the **Minister** must publish particulars of the proposed framework or amendment in the *Government Gazette* for public comment.

#### Contents of national disaster management framework

6. The national disaster management framework must outline a coherent, transparent and inclusive policy on disaster management appropriate for the Republic as a whole with a proportionate emphasis on disasters of different kinds, severity and magnitude that occur or may occur in Southern Africa, and must -
- (a) guide the development and implementation of the concept of disaster management as envisaged by this Act;
  - (b) establish prevention and mitigation as the core principle of the disaster management policy;
  - (c) lay the basis for regional co-operation in disaster management with other Southern African states and the establishment of joint standards of practice;
  - (d) give effect to the application of co-operative governance on issues concerning disasters and disaster management among the spheres of government and allocate responsibilities in this regard to the different spheres;
  - (e) guide the development and implementation of disaster management within national, provincial and municipal organs of state on a cross-functional and multi-



disciplinary basis and allocate responsibilities in **this** regard to different organs of state;

- (f) facilitate –
  - (i) the involvement of the private sector, non-governmental organisations, communities and volunteers in disaster management; and
  - (ii) partnerships in this regard between organs of state and the private sector, non-governmental organisations and communities;
- (g) provide incentives for disaster management capacity-building and training; and
- (h) provide a framework within which organs of state may financially contribute to post-disaster recovery and rehabilitation and the payment of compensation to victims of disasters and their dependents.

#### National Disaster Management Advisory Forum

7. (1) The Minister must establish a National Disaster Management Advisory Forum consisting of –

- (a) the Head of the Centre;
- (b) a senior representative of each national department whose Minister is a member of the Inter-governmental Committee on Disaster Management, designated by that Minister;
- (c) a senior representative of each provincial department whose MEC is a member of that Committee, designated by that MEC;
- (d) representatives of organised local **government**, designated by organised local government;
- (e) the representatives of other disaster management role players designated by the Minister, which may include –
  - (i) organised business;
  - (ii) the Chamber of Mines;
  - (iii) organised **labour**;
  - (iv) religious and welfare organisations;
  - (v) medical and **para-medical** organisations; and
  - (vi) other relevant non-governmental organisations; and

(f) experts in disaster management designated by the Minister.

(2) The Head of the Centre is the chairperson of the Forum.

(3) The Forum is a body in which national, provincial and local government and other disaster management role players consult, and co-ordinate their actions, on matters relating to disaster management, and may, in performing this function –

- (a) make recommendations concerning the national disaster management framework to the Inter-governmental Committee on Disaster Management; and
- (b) advise any organ of state, statutory functionary, the private sector, non-governmental organisation or community on any matter relating to disaster management.

## CHAPTER 2

### NATIONAL DISASTER MANAGEMENT

#### *Part 1: Disaster Management Centre*

##### Establishment

8. (1) A Disaster Management Centre is hereby established as an institution inside the public service.

(2) The Centre forms part of and functions within a department of state for which the Minister is responsible.

##### Object

9. The object of the Centre is to promote an integrated and co-ordinated system of disaster management, with a special emphasis on prevention and mitigation, by national, provincial and municipal organs of state, statutory dictionaries, other role players involved in disaster management and communities.

#### *Administration*

##### Appointment of Head

10. (1) The Minister must appoint a person as the Head of the Centre subject to

subsection (2) and legislation governing the public service.

(2) A person appointed as the Head of the **Centre** holds office in the Department on terms and conditions set out in a written employment contract which must include terms and conditions setting performance standards.

#### Acting Head

11. When the Head of the **Centre** is absent or otherwise unable to perform the functions of office, or during a vacancy in the office of Head of the **Centre**, the Director-General of the Department may designate another person in the service of the Department to act as Head of the **Centre**.

#### Responsibilities of Head

12. (1) The Head of the **Centre** –

- (a) is responsible for the performance by the **Centre** of its functions and the exercise of its powers; and
- (b) takes all decisions of the **Centre** in the performance of its functions and the exercise of its powers, except those decisions of the **Centre** taken in consequence of a delegation or instruction in terms of section 14.

(2) The Head of the **Centre** performs the functions of office subject to section 15 (3).

#### Staff

13. (1) The staff of the **Centre** consists of –

- (a) the Head of the **Centre**; and
- (b) persons in the service of the Department designated by the Director-General of the Department for the work of the **Centre**.

(2) An employee of an organ of state may be seconded to the **Centre** by agreement between the Director-General of the Department and such organ of state.

(3) Persons seconded to the **Centre** perform their duties of office subject to the control and directions of the Head of the **Centre**.

### Delegation

14. (1) The Head of the Centre may delegate, in writing, any of the powers or duties entrusted to the Centre in terms of this Act to—

- (a) a member of the staff of the Centre; or
- (b) a provincial or municipal disaster management office, with the permission of that office.

(2) A delegation in terms of subsection (1) -

- (a) is subject to the limitations or conditions that the Head of the Centre may impose; and
- (b) does not divest the Head of the Centre of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty.

(3) The Head of the Centre may confirm, vary or revoke any decision taken in consequence of a delegation in terms of subsection (1), provided that no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

### *Functions and powers of the Centre*

#### General functions and powers

15. (1) The Centre must, subject to the other provisions of this Act, do all that is necessary or expedient to achieve its object mentioned in section 9, and, for this purpose –

- (a) must specialise in issues concerning disasters and disaster management;
- (b) must monitor whether organs of state and statutory functionaries comply with this Act and the national disaster management framework;
- (c) must act as a repository and conduit for information concerning disasters, impending disasters and disaster management;
- (d) may act as an advisory and consultative body on issues concerning disasters and disaster management for –
  - (i) organs of state and statutory functionaries;
  - (ii) the private sector and non-governmental organisations;
  - (iii) communities and individuals; and

- (iv) other governments and institutions in Southern Africa;
- (e) may initiate and facilitate efforts to make funds available for disaster management;
- (f) may make recommendations –
  - (i) on draft legislation affecting this Act, the national disaster management framework or any other disaster management issue; or
  - (ii) for the alignment of national, provincial or municipal legislation with this Act and the national disaster management framework;
- (g) must promote disaster management capacity-building and training; and
- (h) must perform the other duties and may exercise the other powers assigned to the Centre in terms of this Act.

(2) The Centre may –

- (a) engage in any lawful activity, whether alone or together with any other organisation in the Republic or elsewhere, aimed at promoting the proper performance of its functions or exercise of its powers;
- (b) exchange information relevant to disaster management with foreign institutions performing functions similar to those of the Centre.

(3) The Centre must perform its functions and exercise its powers –

- (a) within the policy directions of the national disaster management framework;
- (b) subject to the other policy directions of the Minister; and
- (c) in accordance with the administrative instructions of the Director-General of the Department.

(4) The Centre must liaise with the co-ordinate its activities with the provincial and local disaster management offices.

**Centre** to identify and establish communication links with disaster management role players

16. (1) The Centre must –

- (a) develop and maintain a directory of institutional role players involved in disaster management in Southern Africa showing –
  - (i) their names, telephone and fax numbers and physical, postal and electronic addresses;

- (ii) particulars of their involvement in disaster management; and
  - (iii) the nature, capacity and location of emergency and relief services under their control; and
- (b) establish effective links of communication with contact persons identified by those role players.

- (2) The directory must include particulars of–
- (a) all national, provincial and municipal organs of state and statutory functionaries involved in disaster management;
  - (b) non-governmental organisations involved in disaster management;
  - (c) private sector voluntary agencies involved in disaster management; and
  - (d) foreign voluntary agencies involved in disaster management in Southern Africa.

(3) The Centre must establish links of communication with foreign disaster management agencies, including institutions performing similar functions as the Centre, to exchange information and to have access to international expertise on disaster management.

#### **Disaster management information system**

**170** (1) The Centre must act as a repository of and conduit for information concerning disasters and disaster management, and must for this purpose –

- (a) collect information on all aspects of disasters and disaster management;
- (b) process and **analyse** such information; and
- (c) develop and maintain an electronic database as envisaged in subsection (2).

(2) The electronic database developed by the Centre must contain extensive information concerning disasters that occur or may occur in Southern Africa and disaster management issues, including information on–

- (a) phenomena, occurrences, activities and circumstances that cause or aggravate disasters;
- (b) risk factors underlying disasters and ways and means to reduce such risks;
- (c) prevention and mitigation;
- (d) early warning systems;
- (e) the directory of role players referred to in section 16 and the names and particulars of their respective contact persons;
- (f) emergency response resources and capacity in the national, provincial and local

spheres of government and in the non-government sectors, including the location, size and other relevant data relating to –

- (i) police stations;
  - (ii) hospitals, clinics and other health institutions;
  - (iii) ambulance and **para-medical** services;
  - (iv) school, church and public buildings and other facilities that could be used as emergency shelters or hospitals in the event of a disaster;
  - (v) fire fighting stations and units; and
  - (vi) airports, airstrips, **harbours**, seaports and railway stations; and
- (g) the state of emergency preparedness in the different spheres of government.

(3) The **Centre** must take reasonable steps to ensure that the database is at all times electronically accessible by any person free of charge.

#### Gathering of information

18. (1) The **Centre** may, by notice in writing, request any organ of state or other person in possession of information required by the **Centre** for the purpose of section 16 or 17, to provide such information free of charge to the **Centre** within a period determined by the **Centre**.

(2) An organ of state must comply with a request in terms of subsection (1).

(3) If an organ of state fails to comply with a request, the **Centre** must report the failure to the Minister who must take such steps as maybe necessary to secure compliance with the request, including reporting the **failure** to Parliament.

#### Disaster management **plans** and strategies

19. The **Centre** must –

- (a) develop guidelines for, and initiate, support and assist in, the preparation, and regular review and updating, of disaster management plans and strategies by organs of state and other institutional role players involved in disaster management;
- (b) assist in co-ordinating the implementation of these plans and strategies by the respective organs of state and other role players; and
- (c) develop guidelines for, and initiate, support and assist in, the integration of the concept and principles of disaster management, and particularly strategies on

prevention and mitigation, with national, provincial and local development plans, programmed and initiatives.

#### Prevention and mitigation

**20.** (1) The **Centre** must give guidance to organs of state, the private sector, non-governmental organisations, communities and individuals to assess and prevent or reduce the risk of disasters, including –

- (a) ways and means to –
  - (i) determine levels of risk;
  - (ii) assess the **vulnerability** of communities to potential disasters;
  - (iii) increase the **capacity** of communities to deal with disasters; and
  - (iv) monitor the likelihood of, and the state of alertness to, disasters;
- (b) the development and implementation of appropriate prevention and **mitigation** methodologies;
- (c) the integration of prevention and **mitigation** methodologies **with** development plans, **programmes and initiatives**; and
- (d) the management of high risk developments.

(2) The **Centre** must promote formal and informal initiatives that encourage risk avoidance **behaviour** by organs of state, the private sector, non-governmental organisations, communities and individuals.

#### Monitoring, measuring performance and evaluating disaster management plans and prevention and mitigation initiatives

**21.** (1) The **Centre** must –

- (a) monitor –
  - (i) progress with the preparation and regular updating in terms of sections 25,34 and 44 of disaster management plans and strategies by organs of state and other institutional role players involved in disaster management; and
  - (ii) formal and informal prevention and mitigation initiatives by organs of state, the private sector, non-governmental organisations and communities, including the integration of these initiatives with development plans; and
- (b) from time to time measure performance and evaluate such progress and initiatives.



**Giving of advice and guidance**

22. The Centre may give advice and guidance by –
- (a) publishing guidelines and recommendations in the Government **Gazette** or a **provincial gazette**;
  - (b) interacting on an individual basis;
  - (c) facilitating access to its electronic database; and
  - (d) acting in any other way approved by the Director-General.

**Classification and recording of disasters**

23. (1) When a disastrous event occurs or is threatening, the Centre may for the purpose of the proper application of this Act determine whether the event qualifies as a disaster in terms of this Act, and if it does so qualify the Centre must –
- (a) assess the magnitude and severity or potential magnitude and severity of the disaster;
  - (b) classify the disaster as a local, provincial or national disaster in accordance with subsections (4), (5) and (6); and
  - (c) record the prescribed particulars concerning the disaster in the prescribed register.

(2) When assessing the magnitude and severity or potential magnitude and severity of a disaster, the Centre may enlist the assistance of an independent assessor to evaluate the disaster on site.

(3) A disaster classified in terms of subsection(1) (b) as a local, provincial or national disaster may at any time be reclassified by the Centre if the magnitude and severity or potential magnitude and severity of the disaster is greater or lesser than the initial assessment.

(4) A disaster is a local disaster if –

- (a) it affects a single metropolitan, district or local municipality only; and
- (b) the municipality concerned, or, if it is a district or local municipality, that municipality either alone or with the assistance of local municipalities in the area of the district municipality, is able to deal with it effectively.

(5) A disaster is a provincial disaster if–

- (a) it affects -
  - (i) more than one metropolitan or district municipality in the same province;

or

- (ii) a single metropolitan or district municipality in the province which is unable to deal with it effectively; and
- (b) the province concerned is able to deal with it effectively.

(6) A disaster is a national disaster if it affects –

- (a) more than one province; or
- (b) a single province which is unable to deal with it effectively.

(7) Until a disaster is classified in terms of this section, the disaster must be regarded as a local disaster.

(8) The classification of a disaster in terms of this section designates primary responsibility but does not prevent any organ of state to assist in dealing with the disaster and its consequences.

#### Annual reports

24. (1) The **Centre** must annually submit a report to the Director-General of the Department on –

- (a) its activities during the **year**;
- (b) disasters that occurred during the year in each province;
- (c) the classification, magnitude and severity of these disasters;
- (d) the effects they had;
- (e) particular problems that were experienced –
  - (i) in dealing with these disasters; and
  - (ii) generally in implementing this Act and the national disaster management framework;
- (f) the way in which these problems were addressed and any recommendations the **Centre** wishes to make in this regard;
- (g) progress with the preparation and regular updating in terms of sections 25,34 and 44 of disaster management plans and strategies by organs of state and other institutional role players involved in disaster management; and
- (h) an evaluation of the implementation of such plans and strategies.

(2) The **Centre** must submit a copy of its report to each provincial and municipal disaster management office.

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## *Part 2: National government's duties and powers*

### **Preparation of disaster management plans**

**25.** (1) Each national organ of state indicated in the national disaster management framework **must**—

- (a) prepare a disaster management plan setting out -
  - (i) the way in which the concept and principles of disaster management are to be applied in its functional **area**;
  - (ii) its role and responsibilities in terms of the national disaster management framework;
  - (iii) its role and responsibilities regarding emergency response and **post-disaster recovery and rehabilitation**;
  - (iv) its capacity to **fulfil** its roles and responsibilities;
  - (v) particulars of its disaster management strategies; **and**
  - (vi) contingency strategies and emergency procedures in the event of a disaster, including measures to finance these strategies;
- (b) co-ordinate **and** align the implementation of its plan with those of other organs of state and institutional role players; and
- (c) regularly review and update its plan.

(2) A national organ of state referred to in subsection (1) must submit a copy of its disaster management plan, and of any amendment to the plan, to the Centre.

### **Special powers in event of national disasters**

**26.** (1) In the event of a national disaster the Minister may, subject to subsection (2) and after consulting the responsible Cabinet member -

- (a) make arrangements for the release of any available resources of the national government, including stores, equipment, vehicles and facilities;
  - (b) make arrangements for personnel of a national organ of state to be made temporarily available for the performance of emergency services;
-

- (c) implement all or any of the provisions of a disaster management plan that is applicable in the circumstances or initiate, order or oversee the implementation of all or any of the provisions of such a plan;
- (d) direct, regulate and oversee the evacuation to temporary shelters of all or part of the population **from** the disaster-stricken or threatened area if such action is necessary for the preservation of life;
- (e) regulate and oversee traffic to, from and within the disaster-stricken or threatened area;
- (f) regulate and oversee the movement of persons and goods to, from and within the disaster-stricken or threatened area;
- (g) control the occupancy of premises in the disaster-stricken or threatened area;
- (h) make provision for and control the use of temporary emergency housing;
- (i) suspend or limit the sale, dispensing or transportation of alcoholic beverages in the disaster-stricken or threatened area;
- (j) do anything necessary to maintain existing, or to install temporary, lines of communication to or from or within the **disaster-stricken** or threatened area;
- (k) issue and disseminate information required for dealing with the disaster;
- (l) facilitate post-disaster **reconstruction**, rehabilitation and recovery; and
- (m) take all other steps that may be necessary to prevent escalation of the disaster, or to alleviate, contain and minimise the effects of the disaster.

(2) The Minister may exercise the powers contained in subsection (1) to the extent only that this is necessary for the purpose of –

- (a) assisting and protecting the public;
- (b) providing relief to the public;
- (c) preventing or combating disruption; or
- (d) dealing with the destructive and other effects of the disaster.

(3) The Minister may exercise the powers contained in subsection (1) by prescribing regulations, including regulations prescribing penalties for any contravention of the regulations.

## CHAPTER 3

### PROVINCIAL DISASTER MANAGEMENT

#### *Part 1: Provincial disaster management policy*

##### Provincial policy framework

27. (1) Each province must establish and implement a policy framework for disaster management in the province aimed at ensuring an integrated and common approach to disaster management in the province by all provincial organs of state, provincial statutory functionaries, non-governmental institutions involved in disaster management in the province and the private sector.

(2) A provincial disaster management policy framework must be –

- (a) consistent with the provisions of this Act; and
- (b) within the national disaster management framework.

#### *Part 2: Provincial disaster management offices*

##### Establishment

28. (1) Each province must establish a disaster management office for the province.

(2) A provincial disaster management office forms part of a department in the province's administration designated by the Premier.

##### Functions and powers

29. (1) A provincial disaster management office –

- (a) must specialise in issues concerning disasters and disaster management in the province;
- (b) must promote an integrated and co-ordinated approach to disaster management in

the province, with a special emphasis on prevention and mitigation, by-

- (i) provincial organs of state in the province; and
  - (ii) other provincial role players involved in disaster management in the province;
- (c) must act as a repository and conduit for information concerning disasters, impending disasters and disaster management in the province; **and**
- (d) may act as an advisory and consultative body for organs of state, statutory functionaries, the private sector, non-governmental organisations, communities and individuals, on issues concerning disasters and disaster management in the province;
- (e) may initiate and facilitate efforts to make funds available for disaster management;
- (f) may make recommendations –
- (i) on **draft** legislation affecting this Act, the national disaster management framework or any other disaster management issue; or
  - (ii) for the alignment of provincial or municipal legislation with this Act and the national disaster management framework;
- (g) must perform any functions and may exercise any powers delegated to it in terms of section 14; and
- (h) must perform the other duties and may exercise the other powers assigned to it in terms of **this** Act.

(2) A provincial disaster management office may engage in any lawful activity in the province, whether alone or together with any other organisation, aimed at promoting the proper performance of its **functions** or exercise of its powers.

(3) A provincial disaster management office must perform its functions and exercise its powers -

- (a) within the national disaster management framework and the provincial policy framework referred to in section 27;
- (b) subject to the policy directions of the MEC responsible for disaster management in the province acting within the national disaster management framework and the provincial policy framework; and
- (c) in accordance with the administrative instructions of the head of the provincial department **in** which it is located.

(4) A provincial disaster management **office** must liaise with and co-ordinate its activities with those of the **Centre** and the municipal disaster management offices in the province.

#### Head of disaster management office

30. The head of a provincial disaster management office –

- (a) is responsible for the performance by the office of its functions and the exercise of its powers; and
- (b) takes all decisions of the office in the performance of its functions and the exercise of its powers, except those decisions taken by another person in consequence of a delegation by the head of the office.

#### Assistance to **Centre**

31. (1) A provincial disaster management office must assist the **Centre** at the **Centre's** request to–

- (a) **identify** and establish communication links with provincial organs of state and other disaster management role players in the province for the purposes of section 16;
- (b) develop and maintain the disaster management electronic **databank** as envisaged in section 17 in so far as the databank applies to the province;
- (c) develop **guidelines** in terms of section 19 for the –
  - (i) preparation and regular review of disaster management plans and strategies, including contingency plans and emergency procedures;
  - (ii) the integration of the concept and principles of disaster management, and particularly prevention and mitigation strategies, with development plans and programmed.

(2) (a) A provincial disaster management office may, by notice in writing, request any provincial organ of state or other person in possession of information required by that office for the purpose of subsection (1) (a) or (b), to provide such information free of charge to the office within a period determined by the office.

(b) A provincial organ of state must comply with a request in terms of paragraph (a).

(c) If a provincial organ of state fails to comply with a request the

provincial disaster management office must report the failure to the MEC responsible for disaster management in the province, who must take such steps as may be necessary to secure compliance with the request, including reporting the failure to the provincial legislature.

Disasters occurring or threatening in provinces

32. When a disastrous event occurs or is threatening in a province, the disaster management office of the province concerned must determine whether the event qualifies as a disaster in terms of this Act, and if so must immediately –

- (a) initiate efforts to assess the magnitude and severity or potential magnitude and severity of the disaster;
- (b) inform the Centre of the disaster and its initial assessment of the magnitude and severity or potential magnitude and severity of the disaster;
- (c) alert disaster management role players in the province that maybe of assistance in the circumstances; and
- (d) initiate the implementation of any contingency plans and emergency procedures that may be applicable in the circumstances.

Annual reports

33. (1) The disaster management office of a province must annually submit a report to the head of the provincial department in which it is located, on –

- (a) its activities during the year;
- (b) disasters that occurred during the year in the province;
- (c) the classification, magnitude and severity of these disasters;
- (d) the effects they had;
- (e) particular problems that were experienced –
  - (i) in dealing with these disasters; and
  - (ii) generally in implementing this Act and the national disaster management framework;
- (f) the way in which these problems were addressed and any recommendations the office wishes to make in this regard;
- (g) progress with the preparation and regular updating in terms of section 34 of disaster management plans by provincial organs of state and other institutional role players involved in disaster management in the province; and
- (h) an evaluation of the implementation of such plans.



(2) The provincial disaster management office must submit a copy of its report to the **Centre** and to each municipal disaster management office in the province,

### ***Part 3: Provincial governments' duties and powers***

#### Preparation of disaster management plans

34. (1) Each provincial organ of state indicated in the national disaster management framework **must**—
- (a) prepare a disaster management plan setting out -
    - (i) the way in which the concept and principles of disaster management are to be applied in its fictional area;
    - (ii) its role and responsibilities in terms of the national disaster management framework;
    - (iii) its capacity to **fulfil** its role and responsibilities;
    - (iv) particulars of its disaster management strategies; and
    - (v) contingency strategies and emergency procedures in the event of a disaster, including measures to finance these strategies;
  - (b) co-ordinate and align the implementation of its plan with those of other organs of state and institutional role players; and
  - (c) regularly **review** and update its plan,

(2) A provincial organ of state referred to in subsection (1) must submit a copy of its disaster management plan, and of any amendment to the plan, to the **Centre** and the relevant provincial disaster management office.

#### Disaster management plans for provinces

35. (1) Each province must prepare a disaster management plan for the province as a whole.
- (2) A disaster management plan for a province **must**—
- (a) anticipate the types of disaster that might occur in the province and their possible effects;
  - (b) identify the communities at risk;
  - (c) provide for appropriate prevention and mitigation strategies;
  - (d) identify and address **weaknesses in capacity to deal with possible disasters**;

- (e) facilitate maximum emergency preparedness; and
- (e) contain contingency plans and emergency procedures in the event of a disaster, providing for--
  - (i) the allocation of responsibilities to the various role players and co-ordination in the carrying out of those responsibilities;
  - (ii) prompt disaster response and relief;
  - (iii) the procurement of essential goods and the provisioning of essential services;
  - (iv) the establishment of strategic communication links;
  - (v) the dissemination of information; and
  - (vi) other matters that may be prescribed.

(3) A province must submit a copy of its disaster management plan, and of any amendment to the plan, to the **Centre**.

#### Special powers in event of provincial disasters

36. (1) **In** the event of a provincial disaster, the Premier of the province concerned may, subject to subsection (2) and **after** consulting the responsible MEC --
- (a) make arrangements for the release of any available resources of the provincial government, including stores, equipment, vehicles and facilities;
  - (b) make arrangements for personnel of a provincial organ of state to be made temporarily available for the performance of emergency services;
  - (c) implement all or any of the provisions of a provincial disaster management plan that is applicable in the circumstances or initiate, order or oversee the implementation of all or any of the provisions of such a plan;
  - (d) direct, regulate and oversee the evacuation to temporary shelters of all or part of the population **from** the disaster-stricken or threatened area if such action is necessary for the preservation of life;
  - (e) regulate and oversee traffic to, from and within the disaster-stricken or threatened area;
  - (f) regulate and oversee the movement of persons and goods to, from and within the disaster-stricken or threatened area;
  - (g) control **the** occupancy of premises in the disaster-stricken or threatened area;

- (h) make provision for and control the use of temporary emergency housing;
- (i) suspend or limit the sale, dispensing or transportation of alcoholic beverages in the disaster-stricken or threatened area;
- (j) do anything necessary to maintain existing or to install temporary lines of communication to or from or within the disaster area;
- (k) issue and disseminate information required for dealing with the disaster;
- (l) facilitate post-disaster **reconstruction**, rehabilitation and recovery; and
- (m) take all other steps that may be **necessary** to prevent escalation of the disaster, or to alleviate, contain and minimise the effects of the disaster.

(2) The Premier may exercise the powers contained in subsection (1) to the extent only that this is necessary for the purpose of –

- (a) assisting and protecting the public;
- (b) providing relief to the public;
- (c) preventing or combating disruption; or
- (d) dealing with the destructive and other effects of the disaster.

(3) The Premier may exercise the powers contained in subsection (1) by prescribing regulations, including regulations prescribing penalties for any contravention of the regulations.

## CHAPTER 4

### MUNICIPAL DISASTER MANAGEMENT

#### *Part 1: Municipal disaster management policy*

##### **Municipal** policy framework

37. (1) Each metropolitan and each district municipality must establish and implement a policy framework for disaster management in the municipality aimed at ensuring an integrated and common approach to disaster management in its area by –

- (a) the municipality **and statutory** functionaries of the municipality; including, in the case of a district municipality, the local municipalities **and** statutory functionaries of the local municipalities in its area;
- (b) **all** municipal **public** entities **as defined** in section 1 of the Local Government: Municipal Finance Management Act, 2000 (Act No. of 2000), operating in its area;
- (c) **all non-governmental** institutions involved in disaster management in its area; **and**
- (d) the private sector,

(2) A district municipality must establish its disaster management policy after consultation with the **local** municipalities in its area.

(3) A municipal disaster **management** policy framework must be –

- (a) consistent with the provisions of this Act;
- (b) **within** the **national disaster** management framework; and
- (c) consistent with the **disaster** management policy framework of the province concerned.

### ***Part 2: Municipal disaster management offices***

#### Establishment

38. (1) Each **metropolitan and each** district municipality must establish in its administration a disaster **management** office for its municipal area,

(2) A district municipality –

- (a) must establish its **disaster** management office after consultation with the **local municipalities within its** area; and
- (b) may operate such office in **partnership** with those local municipalities.

#### Functions and powers

39. (1) A municipal disaster management office –

- (a) must specialise in issues concerning disasters and disaster management in the municipal area;

- (b) must promote an integrated and co-ordinated approach to disaster management in the municipal area, with a special emphasis on prevention and mitigation, by –
  - (i) departments and other administrative units of the municipality, and, in the case of a district municipality, by departments and other administrative units of the local municipalities in the area of the district municipality;
  - (ii) all municipal public entities as defined in section 1 of the Local Government: Municipal Finance Management Act, 2000 (Act No. of 2000), operating in the municipal area; and
  - (iii) other municipal role players involved in disaster management in the municipal area;
- (c) must act as a repository and conduit for information concerning disasters, impending disasters and disaster management in the municipality;
- (d) may act as an advisory and consultative body for organs of state, the private sector, non-governmental organisations, communities and individuals, on issues concerning disasters and disaster management in the municipal area;
- (e) may initiate and facilitate efforts to make funds available for disaster management;
- (f) may make recommendations –
  - (i) on draft legislation affecting this Act, the national disaster management framework or any other disaster management issue; or
  - (ii) for the alignment of municipal legislation with this Act and the national disaster management framework;
- (g) must perform any functions and may exercise any powers delegated to it in terms of section 14; and
- (h) must perform the other duties and may exercise the other powers assigned to it in terms of this Act.

**(2)** A municipal disaster management office may engage in any lawful activity in the municipal area, whether alone or together with any other organisation, aimed at promoting its objectives.

- (3) A municipal disaster management office must perform its functions –
- (a) within the national disaster management framework;
  - (b) subject to the municipality's integrated development plan and other policy directions of the municipal council acting within the national disaster

management framework; and

(c) in accordance with the administrative instructions of the municipal manager.

**(4)** A municipal disaster management office must liase with and co-ordinate its activities with those of the **Centre** and the relevant provincial disaster management office.

Head of disaster management office

40. The head of a municipal disaster management office –

- (a) is responsible for the performance by the office of its functions and the exercise of its powers; and
- (b) takes all decisions of the office in the performance of its functions and the exercise of its powers, except those decisions taken by another person in consequence of a delegation by the head of the office.

Assistance to **Centre**

41. (1) A municipal disaster management office must assist the **Centre** at the **Centre's** request –

- (a) to identify and establish communication links with disaster management role players in the municipal area for the purposes of section 16;
- (b) to develop and maintain the disaster management electronic databank as envisaged in section 17 in so far as the databank applies to the municipality;
- (c) to develop guidelines in terms of section 19 for the –
  - (i) preparation and regular review of disaster management plans and strategies, including contingency plans and emergency procedures;
  - (ii) the integration of the concept and principles of disaster management, and particularly prevention and mitigation strategies, with development plans and programmed.

**(2) (a)** The disaster management office of a municipality may, by notice in writing, request any person in possession of information required by that office for the purpose of subsection(1) (a) or (b), including any department, structure or statutory **functionary** in the municipality, or, if it is a district municipality, any department, structure or statutory **functionary** in a local municipality within the area of the district municipality, to provide the required information to the office within a period determined by the office.

(b) If a **department**, structure or statutory functionary in a municipality fails to comply with a request in terms of paragraph (a) the municipal disaster management office must report the failure to the municipal manager, who must take such steps as maybe **necessary** to secure compliance with the request.

#### Disasters occurring or threatening in municipal areas

42. **When** a disastrous event occurs or is threatening in the area of a municipality, the disaster management office of the municipality concerned must determine whether the event qualifies as a disaster in terms of this Act, and, if so, must immediately –

- (a) initiate efforts to assess the magnitude and severity or potential **magnitude** and severity of the disaster;
- (b) inform the **Centre** and the relevant provincial disaster management office of the disaster and its initial assessment of the magnitude and severity or potential magnitude and severity of the disaster;
- (c) **alert** disaster management role players in the municipal area that maybe of assistance in the circumstances; and
- (d) initiate the implementation of any contingency plans and emergency procedures that may be applicable in the circumstances.

#### Annual reports

43. (1) The disaster management office of a municipality must annually submit a report to the municipal council on –

- (a) its activities during the year;
- (b) disasters that occurred during the year in the area of the municipality;
- (c) the classification, magnitude and severity of these disasters;
- (d) the effects they had;
- (e) particular problems that were experienced –
  - (i) in dealing with these disasters; and
  - (ii) generally in implementing this Act and the national disaster management framework;
- (f) the way in which these problems were addressed and any recommendations the office wishes to make in this regard;
- (g) progress with the **preparation** and **regular** updating in terms of section 44 of disaster management plans by municipal organs of state and other institutional role players involved in disaster management in the municipal area;

and

- (h) an evaluation of the implementation of such plans.

(2) A municipal disaster management office must submit a copy of its report to the Centre and the disaster management office of the province concerned. The disaster management office of a district municipality must also submit a copy of its report to each local municipality in the area of the district municipality.

### *Part 2: Municipalities' duties and powers*

Disaster management **plans for** municipal areas

44. (1) Each metropolitan and each district municipality must prepare a disaster management plan for its area according to the circumstances prevailing in the area.

(2) A disaster management plan for a municipal area must-

- (a) form an integral **part** of the municipality's integrated development plan;
- (b) anticipate the types of disaster that might occur in the area and their possible effects;
- (c) identify the communities at risk;
- (d) provide for appropriate prevention and mitigation strategies;
- (e) identify and address weaknesses in capacity to deal with possible disasters;
- (f) facilitate maximum emergency preparedness; and
- (g) contain contingency plans and emergency procedures in the event of a disaster, providing for-
  - (i) the allocation of responsibilities to the various **role** players and co-ordination in the carrying out of those responsibilities;
  - (ii) prompt disaster response and **relief**;
  - (iii) the procurement of essential goods and the provisioning of essential services;
  - (iv) the establishment of strategic communication links;
  - (v) the dissemination of information; and
  - (vi) other matters that may be prescribed.

(3) A district municipality must prepare its disaster management office **after** consultation with the local municipalities within its area.



(4) A municipality must submit a copy of its disaster management plan, and of any amendment to the plan, to the Centre.

Special powers **in** event of local disasters

45. (1) In the event of a local disaster, the municipal manager of the municipality concerned may subject to subsection (2) and any directions of the municipal council –

- (a) utilise any available resources of the municipality, including stores, equipment, vehicles and facilities;
- (b) temporarily make personnel of the municipality available for the performance of emergency services;
- (c) implement all or any of the provisions of any municipal disaster management plan that is applicable in the circumstances;
- (d) direct, regulate and oversee the evacuation to temporary shelters of all or part of the population **from** the disaster-stricken or threatened area if such action is necessary for the **preservation** of life;
- (e) regulate and oversee traffic to, from and within the disaster-stricken or threatened area;
- (f) regulate and oversee the movement of persons and goods to, from and within the disaster-stricken *or* threatened area;
- (g) control the occupancy of premises in the disaster-stricken or threatened area;
- (h) make provision for and control the use of temporary emergency housing;
- (i) suspend or limit the sale, dispensing or transportation of alcoholic beverages in the disaster-stricken or threatened area;
- (j) do anything necessary to maintain existing, or to install temporary, lines of communication to or **from** and within the disaster-stricken or threatened area;
- (k) issue and disseminate information required for dealing with the disaster;
- (l) facilitate post-disaster reconstruction, rehabilitation and recovery; and
- (m) take all other steps that may be necessary to prevent escalation of the disaster, or to alleviate, contain and minimise the effects of the disaster.

**(2)** A municipal manager may exercise the powers contained in subsection (1) to the extent only that this is necessary for the purpose of –

- (a) assisting and protecting the public;
- (b) providing relief to the public;
- (c) preventing or combating disruption; or
- (d) dealing with the destructive and other effects of the disaster.

**(3)** A municipal manager may exercise the powers contained in subsection (1) by prescribing regulations, including regulations prescribing penalties for any contravention of the regulations.

**(4)** The municipal manager of a local **municipality** may exercise the powers contained in subsections (1) and (3) only in consultation with the municipal manager of the district municipality in which that local municipality is situated.

## **CHAPTER 5**

### **FUNDING OF POST-DISASTER RECOVERY AND REHABILITATION**

#### Guiding principles

46. (1) **When** a disaster occurs the following principles apply:
- (a) National, provincial and local organs of state may financially contribute to post-disaster recovery and rehabilitation, subject to the Public Finance Management Act, 1999 (Act 1 of 1999), and the Local Government: Municipal Finance Management Act, 2000 (Act . . . . of 2000).
  - (b) The cost of repairing or replacing public sector infrastructure should be borne by the organ of state responsible for the maintenance of such infrastructure.

(2) Any financial assistance provided by a national, provincial or local organ of state in terms of subsection (1)(b) must be in accordance with the national disaster management **framework** and any applicable post-disaster **recovery** and rehabilitation policy of the relevant government, and must take into account –

- (a) whether any prevention and mitigation measures have been taken, and if not, the reasons for the absence of such measures;
- (b) whether the disaster could have been avoided or minimised had prevention and mitigation measures been taken;
- (c) whether it is reasonable to expect that prevention **and** mitigation measures should have been taken in the circumstances;
- (d) whether the damage caused by the disaster is covered by commercial insurance, and if not, the reasons for the absence or inadequacy of insurance **cover**;
- (e) the extent of financial assistance available from community, public or other non-governmental support schemes; and
- (f) the financial capacity of the victims of the disaster and their accessibility to commercial insurance.

National contributions to alleviate effects of local and provincial disasters

47. When a municipality or a province in the event of a local or provincial disaster requests the national government to financially contribute to post-disaster recovery and rehabilitation, the following factors must be taken into account:

- (a) **Whether** any prevention and mitigation measures have been taken or initiated by the municipality or province, and if not, the reasons for the absence of such measures;
- (b) whether the disaster could have been avoided or minimised had prevention and mitigation measures been taken;
- (c) whether it is reasonable to expect that prevention and mitigation measures should have been taken or initiated in the **circumstances** by the municipality or province;
- (d) whether the damage caused by the disaster is covered by commercial insurance, and if not, the reasons for the absence or inadequacy of insurance cover; and
- (e) whether or not available financial resources at **local level**, or if it is a provincial

disaster, at provincial level, are exhausted.

## CHAPTER 6 MISCELLANEOUS

### Regulations

48. (1) The Minister may make regulations not inconsistent with this Act concerning any matter that –
- (a) may be prescribed in terms of a provision of this Act; or
  - (b) in the opinion of the Minister is necessary **or** expedient for ~~the~~ effective carrying out or furtherance if the provisions and objects of this Act.

(2) The Minister may in terms of subsection (1) prescribe a penalty not exceeding imprisonment for a period of six months or a fine of **R5000** for any contravention of or failure to comply with a regulation.

### Offences

49. (1) A person is guilty of an **offence** if that person fails to **comply** with a request made by the **Centre** in terms of section 18 (1) or a provincial or local disaster management office in terms of section 31 (2) (a) or 41 (2) (a).

(2) A person convicted of an **offence** mentioned in section (1) is liable on conviction to a fine or to imprisonment not exceeding three months or to both a fine and such imprisonment.

### Indemnity

50. The Minister, the **Centre** or an employee or representative of the **Centre**, or any other person performing a function or exercising a power **in** terms of this Act, is not liable for any thing done in good faith in terms of or **in** furthering the objects of this Act.

**Repeal of Act 67 of 1977**

51. (1) The Civil Protection Act, 1977 (Act No. 67 of 1977), is hereby repealed.

(2) Despite the repeal of the Civil Protection Act, 1977, section 9 of that Act continues to apply to any death, injury or disablement as described in that section which occurred before the repeal of the Act.

**Amendment of Act 107 of 1978**

52. (1) Section 15 of the Fund-raising Act, 1978 (Act 107 of 1978), is hereby amended by the substitution for the definition of "Disaster" of the following definition:

“ ‘disaster’ means a disaster within the meaning of the Disaster Management Act, 2000, and classified in terms of section 23 of that Act as a national, provincial or local disaster;”.

**Alternatively:**

“ ‘disaster’ means a disaster within the meaning of the Disaster Management Act, 2000, and declared by the Minister, by notice in the Government *Gazette*, as a disaster for the purposes of this Act;”.

(2) Section 26 of the Fund-raising Act, 1978, is hereby repealed.

**Short title and commencement**

53. This Act is called the Disaster Management Act, 2000, and takes effect on a date determined by the President by proclamation