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AIDS HELPLINE: 0800-0123-22 Prevention is the cure

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GENERAL NOTICE**Provincial and Local Government, Department of***General Notice*

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GENERAL NOTICE

NOTICE 2374 OF 2001

MINISTRY FOR PROVINCIAL AND LOCAL GOVERNMENT

DISASTER MANAGEMENT BILL, 2002

1. I, Fholisani Sydney Mufamadi, Minister for Provincial and Local Government, hereby, in terms of section 154(2) of the Constitution, publish the Disaster Management Bill, 2002, for public comment.
2. Comments must be submitted in writing to –

The Director-General
Attention: Mr L J Buys
Department of Provincial and Local Government
Private Bag X804
PRETORIA
0001
3. Comments may also be faxed to (012) 334-0810 at the above address.
4. No comments which are received after 14 January 2002 will be considered.

FS MUFAMADI
MINISTER FOR PROVINCIAL AND LOCAL GOVERNMENT

File No. 20/1/2

BILL

To provide for –

- **an integrated and co-ordinated disaster management policy that focuses on preventing or reducing the risk of disasters, mitigating the severity of disasters, emergency preparedness, rapid and effective response to disasters and post-disaster recovery;**
- **the establishment of national, provincial and municipal disaster management centres;**
- **disaster management volunteers; and**
- **matters incidental thereto.**

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

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CHAPTER 1

INTERPRETATION, APPLICATION AND ADMINISTRATION OF ACT

Definitions

1. In this Act, unless the context indicates otherwise—

"Department" means the department of state referred to in section 8 (2);

"disaster" means a progressive or sudden, widespread or localised, natural or human-caused occurrence which—

- (a) causes or threatens to cause—

- (i) death, injury or disease;
- (ii) damage to property, infrastructure or the environment; or
- (iii) disruption of the life of a community; and

- (b) is of a magnitude that exceeds the ability of those affected by the disaster to cope with its effects using only their own resources;

"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 25 of the Local Government: Municipal Systems Act, 2000 (Act No 32 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 centre" means a centre established in the administration of a municipality in terms of section 43;

"municipal entity" means a municipal entity defined in section 1 of the Local Government: Municipal Systems Act, 2000;

"municipal legislation" means municipal by-laws;

"municipal manager" means a person appointed as such 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 administrative unit within the administration of a municipality, including an internal business unit referred to in section 76(a)(ii) of the Local Government: Municipal Systems Act, 2000; or
- (c) a municipal entity;

"National Centre" means the National Disaster Management Centre established by section 8 (1);

"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 prescribed in terms of section 6;

"national organ of state" means a national department or national public entity 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, including development, aimed at creating a situation where —

- (a) normality in conditions caused by a disaster is restored;
- (b) the effects of a disaster are mitigated; or
- (c) circumstances are created that will reduce the risk of a similar disaster occurring;

"prescribe" means prescribe by regulation in terms of section 59;

"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 centre" means a centre established in the administration of a province in terms of section 29 (1);

"provincial organ of state" means a provincial department or provincial public entity 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;

"special event" means any assembly or concourse of people in or on any public place, stadium or premises open to the public, other than a gathering as defined in section 1 of the Regulation of Gatherings Act, 1993 (Act No. 205 of 1993), where –

- (a) the assembly or concourse of people is for purposes of a political, musical, sport, religious, cultural or other recreational event;
- (b) the capacity of such public place, stadium or premises exceed 20 000 persons; and
- (c) an event envisaged in paragraph (a) does not ordinarily take place at the public place, stadium or premises in question;

"statutory functionary" means a person performing a function assigned to that person by national, provincial or municipal legislation;

"this Act" includes any regulations made in terms of section 59.

"vulnerability" means the degree to which an individual, a household, a community or an area may be adversely affected by a disaster.

Application of Act

2. (1) 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 to deal with that occurrence in terms of the State of Emergency Act, 1997 (Act No. 64 of 1997); or
- (b) to the extent that that occurrence can be dealt with effectively in terms of other national legislation—
 - (i) aimed at reducing the risk, and addressing the consequences, of occurrences of that nature; and
 - (ii) identified by the Minister by notice in the *Gazette*.

(2) The Minister may in consultation with Cabinet members responsible for the administration of national legislation referred to in subsection (1)(b), issue guidelines on the application of that subsection.

(3) Where provincial legislation regulating disaster management in a province is inconsistent with this Act, this Act prevails over the provincial legislation subject to section 146 of the Constitution.

Administration of Act

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

CHAPTER 2

INTER-GOVERNMENTAL STRUCTURES AND POLICY FRAMEWORK

Inter-governmental Committee on Disaster Management

4. (1) The President must establish an Inter-governmental Committee on Disaster Management consisting of—

- (a) Cabinet members involved in disaster management or the administration of legislation referred to in section 2(1)(b);
- (b) MECs of each province involved in disaster management or the implementation of legislation referred to in section 2(1)(b) in their respective provinces, selected by the Premier of the province concerned; and
- (c) representatives of organised local government, selected by the South African Local Government Association.

(2) The Minister is the chairperson of the Committee.

(3) The Committee—

- (a) must give effect to the principles of co-operative government in Chapter 3 of the Constitution on issues relating to disaster management;
- (b) is accountable and must report to Cabinet on the co-ordination of disaster management among the spheres of government;
- (c) must advise and make recommendations to Cabinet—
 - (i) on issues relating to disaster management; and

- (ii) on the establishment of a national framework for disaster management aimed at ensuring an integrated and uniform 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 Advisory Forum

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

- (a) the Head of the National 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;
- (e) 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) the insurance industry;
 - (v) organised agriculture;
 - (vi) traditional leaders;
 - (vii) religious and welfare organisations;
 - (viii) medical, paramedical and hospital organisations;
 - (ix) organisations representing disaster management professions in South Africa;
 - (x) other relevant non-governmental and international organisations and relief agencies;

- (xi) statutory bodies regulating safety standards in particular industries;
- (xii) institutions of higher education; and
- (xiii) institutions that can provide scientific and technological advice or support to disaster management;
- (f) experts in disaster management designated by the Minister; and
- (g) persons co-opted by the Forum for a specific period or specific discussions.
- (2) The Head of the National Centre is the chairperson of the Forum.
- (3) (a) The Forum is a body in which national, provincial and local government and other disaster management role-players consult one another and co-ordinate their actions on matters relating to disaster management.
- (b) In performing the functions referred to in paragraph (a), the Forum—
 - (i) must make recommendations concerning the national disaster management framework to the Inter-governmental Committee on Disaster Management; and
 - (ii) may advise any organ of state, statutory functionary, the private sector, non-governmental organisation or community on any matter relating to disaster management.

National disaster management framework

6. (1) The Minister, by notice in the *Gazette*—
- (a) must prescribe a national disaster management framework, taking into account—
 - (i) any recommendations of the Inter-governmental Committee on Disaster Management made in terms of section 4; and
 - (ii) comments by the public submitted as a result of a publication in terms of subsection (2); and
 - (b) may, from time to time, amend the national disaster management framework.
- (2) Before prescribing or amending the national disaster management framework, the Minister must publish particulars of the proposed framework or amendment in the *Gazette* for public comment.

Contents of national disaster management framework

7. (1) The national disaster management framework must provide a coherent, transparent and inclusive policy on disaster management appropriate for the Republic as a whole.

(2) The national disaster management framework must reflect a proportionate emphasis on disasters of different kinds, severity and magnitude that occur or may occur in southern Africa, place emphasis on measures that reduce the vulnerability of disaster-prone areas, communities and households, and must—

- (a) guide the development and implementation of disaster management envisaged by this Act;
- (b) establish prevention and mitigation as the core principles of disaster management;
- (c) facilitate—
 - (i) South Africa's co-operation in international disaster management;
 - (ii) regional co-operation in disaster management in southern Africa; and
 - (iii) 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—
 - (i) determine the relationship between the sphere of government exercising primary responsibility for the co-ordination and management of a disaster in terms of sections 26(1), 40(1) and 54(1) or (2) and the spheres of government performing supportive roles;
 - (ii) allocate specific 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, traditional leaders, technical experts and volunteers in disaster management;

- (ii) community participation in disaster management; and
- (iii) partnerships for purposes of subparagraphs (i) and (ii) between organs of state and the private sector, non-governmental organisations and communities;
- (g) facilitate disaster management capacity-building, training and education, including in schools, and provide incentives for such capacity-building, training and education;
- (h) promote disaster management research;
- (i) guide the development of a comprehensive information management system;
- (j) take into account indigenous knowledge relating to disaster management;
- (k) provide a framework within which organs of state may fund disaster management with specific emphasis on preventing or reducing the risk of disasters, including grants to contribute to post-disaster recovery and rehabilitation and payment to victims of disasters and their dependants;
- (l) address the requirements for co-operation and co-ordination between the different spheres of government, the private sector, non-governmental organisations and communities; and
- (m) provide key performance indicators in respect of the various aspects of disaster management.

CHAPTER 3

NATIONAL DISASTER MANAGEMENT

Part 1: National Disaster Management Centre

Establishment

8. (1) A National Disaster Management Centre is established as an institution within the public service.
- (2) The National Centre forms part of, and functions within, a department of state for which the Minister is responsible.

Objective

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

Administration

Appointment of Head

10. (1) The Minister must, subject to subsection (2) and legislation governing the public service, appoint a person as the Head of the National Centre.

(2) A person appointed as the Head of the National 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 National Centre is absent or otherwise unable to perform the functions of office, or during a vacancy in the office of Head of the National Centre, the Director-General of the Department may designate another person in the service of, or seconded to, the Department to act as Head of the National Centre.

Responsibilities of Head

12. (1) The Head of the National Centre –

(a) is responsible for the exercise by the National Centre of its powers and the performance of its duties; and

(b) takes all decisions of the National Centre in the exercise of its powers and the performance of its duties, except decisions of the National Centre taken in consequence of a delegation or assignment in terms of section 14.

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

Staff

13. (1) The staff of the National Centre consists of—

- (a) the Head of the National Centre; and
- (b) persons in the service of the Department designated by the Director-General of the Department to perform the duties of the National Centre.

(2) An employee of an organ of state or other organisation may be seconded to the National Centre by agreement between the Director-General of the Department and that organ of state or organisation.

(3) Persons seconded to the National Centre perform their functions of office subject to the control and direction of the Head of the National Centre.

Delegation or assignment

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

- (a) a member of the staff of the National Centre;
- (b) a provincial disaster management centre, by agreement with the MEC responsible for the department in which the centre is located; or
- (c) a municipal disaster management centre, by agreement with the municipality concerned.

(2) A delegation or assignment in terms of subsection (1)—

- (a) is subject to the limitations or conditions that the Head of the National Centre may impose; and

(b) does not divest the Head of the National Centre of the responsibility concerning the exercise of the delegated power or the performance of the assigned duty.

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

Powers and duties of National Centre

General powers and duties

15. (1) The National Centre must, subject to other provisions of this Act, do all that is necessary to achieve its objective as set out 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 and must monitor progress with post-disaster recovery and rehabilitation;
- (c) must act as a repository of, 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 to—
 - (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) must make recommendations regarding the funding of disaster management and initiate and facilitate efforts to make such funding available;
- (f) must make recommendations to any relevant organ of state or statutory functionary—
 - (i) on draft legislation affecting this Act, the national disaster management

framework or any other disaster management issue;

- (ii) on the alignment of national, provincial or municipal legislation with this Act and the national disaster management framework; or
 - (iii) in the event of a national disaster, on whether a national state of disaster should be declared in terms of section 27;
- (g) must promote the recruitment, training and participation of volunteers in disaster management;
 - (h) must promote throughout the Republic, including in schools, disaster management capacity-building, training and education and, to the extent that may be appropriate, in other southern African states;
 - (i) must promote research into all aspects of disaster management;
 - (j) may assist in the implementation of legislation referred to in section 2(1)(b) to the extent required by the administrator of such legislation and approved by the Minister; and
 - (k) may exercise any other powers conferred on it, and must perform any other duties assigned to it in terms of this Act.

(2) The National 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 effective exercise of its powers or the performance of its duties;
- (b) exchange information relevant to disaster management with institutions performing functions similar to those of the National Centre in the Republic and elsewhere.

(3) The National Centre must exercise its powers and perform its duties—

- (a) within the national disaster management framework;
- (b) subject to the directions of the Minister;
- (c) in accordance with the administrative instructions of the Director-General of the Department; and
- (d) subject to the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(4) The National Centre must liaise and co-ordinate its activities with the provincial and municipal disaster management centres.

Communication links with disaster management role-players

- 16. (1)** The National Centre must—
- (a) develop and maintain a directory of institutional role-players that are or should be 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 communication links 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) disaster management experts in South Africa;
 - (d) private sector organisations with specialised equipment, skills or knowledge relevant to disaster management;
 - (e) private sector voluntary agencies involved in disaster management; and
 - (f) foreign non-governmental organisations and international organisations involved in disaster management in southern Africa.
- (3)** The National Centre must establish communication links with foreign disaster management agencies, including institutions performing functions similar to those performed by the National Centre, to exchange information and to have access to international expertise in and assistance in respect of disaster management.

Disaster management information system

17. (1) The National 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;
- (c) develop and maintain an electronic database envisaged in subsection (2); and
- (d) take steps to disseminate such information, especially to communities that are vulnerable to disasters.

(2) The electronic database developed by the National 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) recurring occurrences that result in loss, but which are not classified as disasters in terms of this Act;
- (d) prevention and mitigation;
- (e) early warning systems;
- (f) areas and communities that are particularly vulnerable to disasters;
- (g) indigenous knowledge relating to disaster management;
- (h) the directory of role-players referred to in section 16 and the names and particulars of their respective contact persons;
- (i) emergency response resources and capacity in the national, provincial and local spheres of government and in the non-government sectors, including the location and size of, and other relevant information relating to —
 - (i) police stations;
 - (ii) hospitals, clinics and other health institutions;
 - (iii) emergency 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 services; and
 - (vi) airports, airstrips, harbours, seaports and railway stations;
 - (j) emergency response resources and capacity in neighbouring states and relevant international relief agencies;
 - (k) emergency preparedness in the different spheres of government;
 - (l) each disaster classified by the National Centre in terms of section 23, including the assessment of the National Centre of the disaster and the information recorded in the register referred to in subsection (1)(c) of that section; and
 - (m) research and training facilities for disaster management disciplines.
- (3) The National Centre must take reasonable steps to ensure that the database is electronically accessible by any person free of charge.
- (4) Subsection (3) does not prevent the National Centre from—
- (a) establishing security safeguards to protect the database from abuse; and
 - (b) classifying parts of the database as restricted areas and limiting access to those parts to persons authorised by the Minister.

Gathering of information

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

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

Disaster management plans and strategies

19. The National Centre must—

- (a) develop guidelines for 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) support, and assist in, the preparation, and regular review and updating of these plans and strategies by organs of state and other institutional role-players involved in disaster management;
- (c) assist in aligning these plans and strategies;
- (d) assist in co-ordinating the implementation of these plans and strategies by the respective organs of state and other role-players;
- (e) develop guidelines for the integration of the concept and principles of disaster management, and particularly strategies on prevention and mitigation, with national, provincial and municipal development plans, programmes and initiatives; and
- (f) support, and assist in, the integration referred to in paragraph (e).

Prevention and mitigation

20. (1) The National Centre, to the extent that it has the capacity, 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 of –
 - (i) determining levels of risk;
 - (ii) assessing the vulnerability of communities and households to disasters that may occur;
 - (iii) increasing the capacity of communities and households to minimise the risk and impact of disasters that may occur; and
 - (iv) monitoring the likelihood of, and the state of alertness to, disasters that may occur;
- (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 National 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, mitigation and response initiatives

21. The National Centre must—

(a) monitor—

- (i) progress with the preparation and regular updating in terms of sections 25, 38, 39, 52 and 53 of disaster management plans and strategies by organs of state involved in disaster management;
- (ii) formal and informal prevention, mitigation and response initiatives by organs of state, the private sector, non-governmental organisations and communities, including the integration of these initiatives with development plans; and
- (iii) the compliance with key performance indicators envisaged by section 7(2)(m); and

(b) from time to time, measure performance and evaluate such progress and initiatives.

Giving of advice and guidance

22. The National Centre may give advice and guidance by—

- (a) publishing guidelines and recommendations in the *Gazette* or a *provincial gazette*;
- (b) interacting with specific role-players and individuals;
- (c) disseminating information;
- (d) conducting workshops;
- (e) facilitating access to its electronic database; and
- (f) acting in any other way approved by the Director-General of the Department.

Classification and recording of disasters

23. (1) When a disastrous event occurs or threatens to occur, the National Centre must, for the purpose of the proper application of this Act, determine whether the event should be regarded as a disaster in terms of this Act, and if so, the National Centre must immediately—

- (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 National Centre—

- (a) must consider any information and recommendations concerning the disaster received from a provincial or municipal disaster management centre in terms of section 35 or 49; and
- (b) may enlist the assistance of an independent assessor to evaluate the disaster on site.

(3) The National Centre may reclassify a disaster classified in terms of subsection (1)(b) as a local, provincial or national disaster at any time after consultation with the relevant provincial or municipal disaster management centres, 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;
 - (ii) a single metropolitan or district municipality in the province and that metropolitan municipality, or that district municipality with the assistance of the local municipalities within its area, is unable to deal with it effectively; or
 - (iii) a cross-boundary municipality in respect of which only one province exercises executive authority as envisaged by section 90(3)(a) of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); 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 to a particular sphere of government for the co-ordination and management of the disaster, but an organ of state in another sphere may assist the sphere having primary responsibility to deal with the disaster and its consequences.

Annual reports

24. (1) The National Centre must submit a report annually to the Minister on—
- (a) its activities during the year;
 - (b) the results of its monitoring of prevention and mitigation initiatives;
 - (c) disasters that occurred during the year in each province;
 - (d) the classification, magnitude and severity of these disasters;
 - (e) the effects they had;
 - (f) particular problems that were experienced—
 - (i) in dealing with these disasters; and
 - (ii) generally in implementing this Act and the national disaster management framework;

- (g) the way in which these problems were addressed and any recommendations the National Centre wishes to make in this regard;
- (h) progress with the preparation and regular updating in terms of sections 25, 38, 39, 52 and 53 of disaster management plans and strategies by organs of state involved in disaster management; and
- (i) an evaluation of the implementation of such plans and strategies.

(2) The Minister must submit the report to Parliament within 30 days after receipt of the report from the National Centre.

(3) The National Centre must, at the same time that its report is submitted to the Minister in terms of subsection (1), submit a copy of the report to each provincial and municipal disaster management centre.

Part 2: Powers and duties of national government

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 role 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) The disaster management plan of a national organ of state referred to in subsection (1) must form an integral part of its planning.
 - (3) (a) A national organ of state must submit a copy of its disaster management plan and of any amendment to the plan to the National Centre.
 - (b) If a national organ of state fails to submit a copy of its disaster management plan or of any amendment to the plan in terms of paragraph (a), the National Centre must report the failure to the Minister, who must take such steps as may be necessary to secure compliance with that paragraph, including reporting the failure to Parliament.

Responsibilities in event of national disaster

26. (1) The national executive is primarily responsible for the co-ordination and management of national disasters irrespective of whether a national state of disaster has been declared in terms of section 27.
- (2) The national executive must deal with a national disaster—
- (a) in terms of existing legislation and contingency arrangements, if a national state of disaster has not been declared in terms of section 27 (1); or
 - (b) in terms of existing legislation and contingency arrangements as augmented by regulations or directions made or issued in terms of section 27(2), if a national state of disaster has been declared.
- (3) This section does not preclude a provincial or municipal organ of state from providing assistance to the national executive to deal with a national disaster and its consequences, and the national executive, in exercising its primary responsibility, must act in close co-operation with the other spheres of government.

Declaration of national state of disaster

27. (1) In the event of a national disaster, the Minister may, by notice in the *Gazette*,

province and the private sector.

(2) A provincial disaster management framework must be consistent with the provisions of this Act and the national disaster management framework.

Part 2: Provincial disaster management centres

Establishment

29. (1) Each province must establish a disaster management centre.

(2) A provincial disaster management centre forms part of, and functions within, a department designated by the Premier in the provincial administration.

Powers and duties

30. (1) A provincial disaster management centre—

- (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 special emphasis on prevention and mitigation, by—
 - (i) provincial organs of state in the province; and
 - (ii) other role-players involved in disaster management in the province;
- (c) must act as a repository of, and conduit for, information concerning disasters, impending disasters and disaster management in the province;
- (d) may act as an advisory and consultative body on issues concerning disasters and disaster management in the province to—
 - (i) organs of state and statutory functionaries;
 - (ii) the private sector and non-governmental organisations; and
 - (iii) communities and individuals;
- (e) must make recommendations regarding the funding of disaster management in the province, and initiate and facilitate efforts to make such funding available;

- (f) may make recommendations to any relevant organ of state or statutory functionary—
 - (i) on draft legislation affecting this Act, the national disaster management framework or any other disaster management issue;
 - (ii) on the alignment of provincial or municipal legislation with this Act and the national disaster management framework; or
 - (iii) in the event of a provincial disaster, on whether a provincial state of disaster should be declared in terms of section 41;
- (g) must promote the recruitment, training and participation of volunteers in disaster management in the province;
- (h) must promote disaster management capacity-building, training and education, including in schools, in the province;
- (i) may promote research into all aspects of disaster management in the province;
- (j) may give advice and guidance by disseminating information regarding disaster management in the province, especially to communities that are vulnerable to disasters;
- (k) may exercise any powers and must perform any duties delegated and assigned to it in terms of section 14; and
- (l) may assist in the implementation of legislation referred to in section 2(1)(b) to the extent required by the administrator of such legislation and approved by the MEC responsible for the department in which the centre is located.

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

(3) A provincial disaster management centre must exercise its powers and perform its duties—

- (a) within the national disaster management framework and the provincial disaster management framework referred to in section 28;
- (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 disaster management framework;

- (c) in accordance with the administrative instructions of the head of the provincial department in which it is located; and
- (d) subject to the Public Finance Management Act, 1999.

(4) A provincial disaster management centre must liaise and co-ordinate its activities with the National Centre and the municipal disaster management centres in the province.

Head of provincial disaster management centre

31. (1) The MEC responsible for the department in which a provincial disaster management centre is located, must, subject to subsection (2) and legislation governing the public service, appoint a person as the head of the provincial disaster management centre.

(2) A person appointed as the head of a provincial disaster management centre holds office on terms and conditions set out in a written employment contract which must include terms and conditions setting performance standards.

(3) The head of a provincial disaster management centre—

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

(4) The head of a provincial disaster management centre performs the functions of office subject to section 30(3).

Assistance to National Centre

32. (1) A provincial disaster management centre must assist the National Centre, at the request of the National Centre, 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 database envisaged in section 17 in so far as the database applies to the province; and
- (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; and
 - (ii) the integration of the concept and principles of disaster management, and particularly prevention and mitigation strategies, with development plans and programmes.

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

(b) If a provincial organ of state fails to comply with a request, the provincial disaster management centre 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.

Prevention and mitigation

33. (1) A provincial disaster management centre, to the extent that it has the capacity, must give guidance to organs of state, the private sector, non-governmental organisations, communities and individuals in the province to assess and prevent or reduce the risk of disasters, including—

- (a) ways and means of –
 - (i) determining levels of risk;
 - (ii) assessing the vulnerability of communities and households to disasters that may occur;
 - (iii) increasing the capacity of communities and households to minimise the risk

- and impact of disasters that may occur; and
 - (iv) monitoring the likelihood of, and the state of alertness to, disasters that may occur;
 - (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) A provincial disaster management 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 in the province.

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

34. A provincial disaster management centre must—

- (a) monitor—
 - (i) progress with the preparation and regular updating in terms of sections 38, 39, 52 and 53 of disaster management plans and strategies by provincial and municipal organs of state involved in disaster management in the province;
 - (ii) formal and informal prevention, mitigation and response initiatives by provincial and municipal organs of state, the private sector, non-governmental organisations and communities, including the integration of these initiatives with development plans; and
 - (iii) the compliance in the province with key performance indicators envisaged by section 7(2)(m); and
- (b) from time to time, measure performance and evaluate such progress and initiatives.

Disasters occurring or threatening to occur in provinces

35. (1) When a disastrous event occurs or threatens to occur in a province, the disaster management centre of the province concerned must determine whether the event should be regarded as a disaster in terms of this Act, and, if so, the centre must immediately—

- (a) initiate efforts to assess the magnitude and severity or potential magnitude and severity of the disaster;
- (b) inform the National 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 may be of assistance in the circumstances; and
- (d) initiate the implementation of any contingency plans and emergency procedures that may be applicable in the circumstances.

(2) When informing the National Centre in terms of subsection (1)(b), the provincial disaster management centre may make such recommendations regarding the classification of the disaster as may be appropriate.

Annual reports

36. (1) The disaster management centre of a province must submit a report annually to the MEC responsible for the provincial department in which the centre is located, on—

- (a) its activities during the year;
- (b) the results of the centre's monitoring of prevention and mitigation initiatives;
- (c) disasters that occurred during the year in the province;
- (d) the classification, magnitude and severity of these disasters;
- (e) the effects they had;
- (f) particular problems that were experienced—
 - (i) in dealing with these disasters; and
 - (ii) generally in implementing this Act and the national disaster management framework;

- (g) the way in which these problems were addressed and any recommendations the centre wishes to make in this regard;
- (h) progress with the preparation and regular updating in terms of sections 38 and 39 of disaster management plans and strategies by provincial organs of state involved in disaster management in the province; and
- (i) an evaluation of the implementation of such plans.

(2) The MEC must submit the report to the provincial legislature within 30 days after receipt of the report from the provincial disaster management centre.

(3) The provincial disaster management centre must, at the same time that its report is submitted to the relevant MEC in terms of subsection (1), submit a copy of the report to the National Centre and to each municipal disaster management centre in the province.

Part 3: Powers and duties of provincial government

Provincial disaster management advisory forum

37. (1) The MEC responsible for disaster management in a province may establish a provincial disaster management advisory forum consisting of –

- (a) the head of the provincial disaster management centre;
- (b) a senior representative of each provincial department designated by the Premier of the province concerned;
- (c) the heads of the respective municipal disaster management centres in the province;
- (d) representatives of organised local government in the province;
- (e) representatives of other disaster management role-players in the province designated by the MEC, which may include –
 - (i) organised business in the province;
 - (ii) representatives of mines in the province;
 - (iii) organised labour in the province;
 - (iv) organised agriculture in the province;

- (v) traditional leaders;
 - (vi) the insurance industry in the province;
 - (vii) religious and welfare organisations in the province;
 - (viii) medical, paramedical and hospital organisations in the province;
 - (ix) other relevant non-governmental organisations and relief agencies in the province;
 - (x) institutions of higher education in the province;
 - (f) experts in disaster management designated by the MEC; and
 - (g) persons co-opted by the forum in question for a specific period or specific discussion.
- (2) A forum envisaged by subsection (1) is a body in which a provincial government and relevant disaster management role-players in the province consult one another and co-ordinate their actions on matters relating to disaster management in the province.

Preparation of disaster management plans

- 38.** (1) Each provincial organ of state indicated in the national or provincial 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 or provincial disaster management framework;
 - (iii) its role and responsibilities regarding emergency response and post-disaster recovery and rehabilitation;
 - (iv) its capacity to fulfil its role 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) The disaster management plan of a provincial organ of state referred to in subsection (1) must form an integral part of its planning.

(3) (a) A provincial organ of state must submit a copy of its disaster management plan and of any amendment to the plan, to the National Centre and the relevant provincial disaster management centre.

(b) If a provincial organ of state fails to submit a copy of its disaster management plan or of any amendment to the plan in terms of paragraph (a), the National Centre or relevant provincial disaster management centre 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 that paragraph, including reporting the failure to the provincial legislature.

Disaster management plans for provinces

39. (1) Each province must—

- (a) prepare a disaster management plan for the province as a whole;
- (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 disaster management plan for a province must —

- (a) form an integral part of development planning in the province;
- (b) anticipate the types of disaster that are likely to occur in the province and their possible effects;
- (c) guide the development of measures that reduce the vulnerability of disaster-prone areas, communities and households;
- (d) seek to develop a system of incentives that will promote disaster management in the province;

- (e) identify the areas or communities at risk;
- (f) take into account indigenous knowledge relating to disaster management;
- (g) promote disaster management research;
- (h) identify and address weaknesses in capacity to deal with possible disasters;
- (i) provide for appropriate prevention and mitigation strategies;
- (j) facilitate maximum emergency preparedness; and
- (k) 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 services;
 - (iv) the establishment of strategic communication links;
 - (v) the dissemination of information; and
 - (vi) other matters that may be prescribed.

(3) Municipal organs of state in the province, to the extent required by the province, may be requested to co-operate with the province in preparing a disaster management plan for the province.

(4) A province must submit a copy of its disaster management plan, and of any amendment to the plan, to the National Centre and each municipal disaster management centre in the province.

Responsibilities in event of provincial disasters

40. (1) The executive of a province is primarily responsible for the co-ordination and management of provincial disasters that occur in the province, irrespective of whether a provincial state of disaster has been declared in terms of section 41.

(2) The provincial executive must deal with a provincial disaster—

- (a) in terms of existing legislation and contingency arrangements, if a provincial state of disaster has not been declared in terms of section 41(1); or

(b) in terms of existing legislation and contingency arrangements as augmented by regulations or directions made or issued in terms of section 41(2), if a provincial state of disaster has been declared.

(3) This section does not preclude a national or municipal organ of state from providing assistance to a provincial executive to deal with a provincial disaster and its consequences.

Declaration of provincial state of disaster

41. (1) In the event of a provincial disaster, the Premier of a province, after consultation with the other MEC's, may, by notice in the *provincial gazette*, declare a provincial state of disaster if—

- (a) existing legislation and contingency arrangements do not adequately provide for the provincial executive to deal effectively with the disaster; or
- (b) other special circumstances warrant the declaration of a provincial state of disaster.

(2) If a provincial state of disaster has been declared in terms of subsection (1), the Premier of the province concerned may, subject to subsection (3), make regulations or issue directions or authorise the issue of directions, concerning—

- (a) the release of any available resources of the provincial government, including stores, equipment, vehicles and facilities;
- (b) the release of personnel of a provincial organ of state for the rendering of emergency services;
- (c) the implementation of all or any of the provisions of a provincial disaster management plan that are applicable in the circumstances;
- (d) 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) the regulation of traffic to, from or within the disaster-stricken or threatened area;
- (f) the regulation of the movement of persons and goods to, from or within the disaster-stricken or threatened area;

- (g) the control and occupancy of premises in the disaster-stricken or threatened area;
- (h) the provision, control or use of temporary emergency accommodation;
- (i) the suspension or limiting of the sale, dispensing or transportation of alcoholic beverages in the disaster-stricken or threatened area;
- (j) the maintenance or installation of temporary lines of communication to, from or within the disaster area;
- (k) the dissemination of information required for dealing with the disaster;
- (l) emergency procurement procedures;
- (m) the facilitation of response and post-disaster recovery and rehabilitation;
- (n) steps to facilitate international assistance; or
- (o) other steps that may be necessary to prevent an escalation of the disaster, or to alleviate, contain and minimise the effects of the disaster.

(3) The powers referred to in subsection (2) may be exercised only to the extent that this is necessary for the purpose of—

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

(4) Regulations made in terms of subsection (2) may include regulations prescribing penalties for any contravention of the regulations.

(5) A provincial state of disaster that has been declared in terms of subsection

(1) —

- (a) lapses three months after it has so been declared;
- (b) may be terminated by the Premier by notice in the *provincial gazette* before it lapses in terms of paragraph (a); and
- (c) may be extended by the Premier by notice in the *provincial gazette* for one month at a time before it is to lapse in terms of paragraph (a), or the existing extension is due to expire.

CHAPTER 5

MUNICIPAL DISASTER MANAGEMENT

Part 1: Municipal disaster management framework

Municipal disaster management framework

42. (1) Each metropolitan and each district municipality must establish and implement a framework for disaster management in the municipality aimed at ensuring an integrated and uniform 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 entities 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 framework after consultation with the local municipalities in its area.

(3) A municipal disaster management framework must be consistent with the provisions of this Act, the national disaster management framework and the disaster management framework of the province concerned.

Part 2: Municipal disaster management centres

Establishment

43. (1) Each metropolitan and each district municipality must establish in its administration a disaster management centre for its municipal area.

(2) A district municipality—

- (a) must establish its disaster management centre after consultation with the local

- municipalities within its area; and
- (b) may operate such centre in partnership with those local municipalities.

Powers and duties

- 44. (1) A municipal disaster management centre—**
- (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 special emphasis on prevention and mitigation, by—
 - (i) departments and other internal units within the administration of the municipality, and, in the case of a district municipality, also by departments and other internal units within the administration of the local municipalities in the area of the district municipality;
 - (ii) all municipal entities operating in the municipal area; and
 - (iii) other role-players involved in disaster management in the municipal area;
 - (c) must act as a repository of, and conduit for, information concerning disasters, impending disasters and disaster management in the municipal area;
 - (d) may act as an advisory and consultative body on issues concerning disasters and disaster management in the municipal area for —
 - (i) organs of state and statutory functionaries;
 - (ii) the private sector and non-governmental organisations; and
 - (iii) communities and individuals;
 - (e) must make recommendations regarding the funding of disaster management in the municipal area, and initiate and facilitate efforts to make such funding available;
 - (f) may make recommendations to any relevant organ of state or statutory functionary—
 - (i) on draft legislation affecting this Act, the national disaster management framework or any other disaster management issue;
 - (ii) on the alignment of municipal legislation with this Act, the national disaster

management framework and the relevant provincial disaster management framework; or

- (iii) in the event of a local disaster, on whether a local state of disaster should be declared in terms of section 55;
- (g) must promote the recruitment, training and participation of volunteers in disaster management in the municipal area;
- (h) must promote disaster management capacity-building, training and education, including in schools, in the municipal area;
- (i) may promote research into all aspects of disaster management in the municipal area;
- (j) may give advice and guidance by disseminating information regarding disaster management in the municipal area, especially to communities that are vulnerable to disasters;
- (k) may exercise any powers and must perform any duties delegated and assigned to it in terms of section 14; and
- (l) may assist in the implementation of legislation referred to in section (2)(1)(b) to the extent required by the administrator of such legislation and approved by the municipal council.

(2) A municipal disaster management centre may engage in any lawful activity in the municipal area, whether alone or together with any other organisation, aimed at promoting the effective exercise of its powers and performance of its duties.

(3) A municipal disaster management centre must exercise its powers and perform its duties—

- (a) within the national disaster management framework, the disaster management framework of the province concerned and the disaster management framework of its municipality;
- (b) subject to the municipality's integrated development plan and other directions of the municipal council acting within the national disaster management framework, the disaster management framework of the province concerned and the disaster management framework of its municipality; and

- (c) in accordance with the administrative instructions of the municipal manager.
- (4) A municipal disaster management centre must liaise and co-ordinate its activities with the National Centre and the relevant provincial disaster management centre.

Head of municipal disaster management centre

45. (1) A municipal council must, subject to the applicable provisions of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), appoint a person as head of its municipal disaster management centre.

(2) The head of a municipal disaster management centre—

- (a) is responsible for the exercise by the centre of its powers and the performance of its duties; and
- (b) in accordance with the directions of the council, takes all decisions of the centre in the exercise of its powers and the performance of its duties, except decisions taken by another person in consequence of a delegation by the head of the centre.

(3) The head of a municipal disaster management centre performs the functions of office subject to section 44(3).

Assistance to National Centre and provincial disaster management centre

46. (1) A municipal disaster management centre must assist the National Centre and the relevant provincial disaster management centre at that centre's request to—

- (a) identify and establish communication links with disaster management role-players in the municipal area for the purposes of section 16;
- (b) develop and maintain the disaster management electronic database envisaged in section 17 in so far as the database applies to the municipality; and
- (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; and
 - (ii) the integration of the concept and principles of disaster management, and particularly prevention and mitigation strategies, with development plans and programmes.

(2) (a) A municipal disaster management centre may, in writing, request any municipal organ of state or person in possession of information reasonably required by that centre for the purpose of subsection (1)(a) or (b), to provide such information to the centre within a reasonable period determined by the centre.

(b) If a municipal organ of state fails to comply with a request, the municipal disaster management centre must report the failure to the executive mayor or mayor, as the case may be, of that municipality, who must take such steps as may be necessary to secure compliance with the request, including reporting the failure to the municipal council.

Prevention and mitigation

47. (1) A municipal disaster management centre, to the extent that it has the capacity, must give guidance to organs of state, the private sector, non-governmental organisations, communities and individuals in the municipal area to assess and prevent or reduce the risk of disasters, including—

(a) ways and means of—

- (i) determining levels of risk;
- (ii) assessing the vulnerability of communities and households to disasters that may occur;
- (iii) increasing the capacity of communities and households to minimise the risk and impact of disasters that may occur; and
- (iv) monitoring the likelihood of, and the state of alertness to, disasters that may occur;

(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) A municipal disaster management centre must promote formal and informal

initiatives that encourage risk-avoidance behaviour by organs of state, the private sector, non-governmental organisations, communities, households and individuals in the municipal area.

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

48. (1) A municipal disaster management centre must—

(a) monitor—

- (i) progress with the preparation and regular updating in terms of sections 52 and 53 of disaster management plans and strategies by municipal organs of state involved in disaster management in the municipal area;
- (ii) formal and informal prevention, mitigation and response initiatives by municipal organs of state, the private sector, non-governmental organisations and communities in the municipal area, including the integration of these initiatives with development plans; and
- (iii) the compliance in the municipal area with key performance indicators envisaged by section 7(2)(m); and

(b) from time to time, measure performance and evaluate such progress and initiatives.

Disaster occurring or threatening to occur in municipal areas

49. (1) When a disastrous event occurs or is threatening to occur in the area of a municipality, the disaster management centre of the municipality concerned must determine whether the event should be regarded 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 National Centre and the relevant provincial disaster management 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 municipal area that may be of assistance in the circumstances; and
- (d) initiate the implementation of any contingency plans and emergency procedures that may be applicable in the circumstances.

(2) When informing the National Centre and the relevant provincial disaster management centre in terms of subsection (1)(b), the municipal disaster management centre may make such recommendations regarding the classification of the disaster as may be appropriate.

Annual reports

50. (1) The disaster management centre of a municipality must submit a report annually to the municipal council on—

- (a) its activities during the year;
- (b) the results of the centre's monitoring of prevention and mitigation initiatives;
- (c) disasters that occurred during the year in the area of the municipality;
- (d) the classification, magnitude and severity of these disasters;
- (e) the effects they had;
- (f) particular problems that were experienced—
 - (i) in dealing with these disasters; and
 - (ii) generally in implementing this Act, the national disaster management framework, the disaster management framework of the province concerned and the disaster management framework of its municipality;
- (g) the way in which these problems were addressed and any recommendations the centre wishes to make in this regard;
- (h) progress with the preparation and regular updating in terms of sections 52 and 53 of disaster management plans and strategies by municipal organs of state involved in disaster management in the municipal area; and
- (i) an evaluation of the implementation of such plans.

(2) (a) A municipal disaster management centre must, at the same time that its report is submitted to the municipal council in terms of subsection (1), submit a copy of the report to the National Centre and the disaster management centre of the province concerned.

(b) The disaster management centre of a district municipality must, at the same time, also submit a copy of its report to each local municipality in the area of the district municipality.

(3) The disaster management centre of a district municipality that is operated in partnership with local municipalities within the area of the district municipality, must prepare its report in consultation with those local municipalities.

Part 3: Powers and duties of municipalities and municipal entities

Municipal disaster management advisory forum

51. (1) A metropolitan or district municipality may establish a municipal disaster management advisory forum consisting of –

- (a) the head of the municipal disaster management centre in the municipality;
- (b) a senior representative of each department or component within the administration of the municipality designated by the executive mayor or mayor, as the case may be;
- (c) if it is a district municipality, representatives of the local municipalities within the area of jurisdiction of the district municipality;
- (d) representatives of other disaster management role-players in the municipality designated by the executive mayor or mayor, as the case may be, which may include –
 - (i) organised business in the municipality;
 - (ii) relevant community-based organisations;
 - (iii) traditional leaders;

- (iv) the insurance industry in the municipality;
- (v) representatives of the agricultural sector in the municipality;
- (vi) religious and welfare organisations in the municipality;
- (vii) medical, paramedical and hospital organisations in the municipality;
- (viii) other relevant non-governmental organisations and relief agencies in the municipality;
- (e) experts in disaster management designated by the executive mayor or mayor, as the case may be ; and
- (f) persons co-opted by the forum in question for a specific period or specific discussion.

(2) A forum envisaged by subsection (1) is a body in which a municipality and relevant disaster management role-players in the municipality consult one another and co-ordinate their actions on matters relating to disaster management in the municipality.

Preparation of disaster management plans by municipal entities

52. (1) Each municipal entity indicated in the national or the relevant provincial or municipal 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, provincial or municipal disaster management frameworks;
 - (iii) its role and responsibilities regarding emergency response and post-disaster recovery and rehabilitation;
 - (iv) its capacity to fulfil its role 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) A municipal entity referred to in subsection (1) must submit a copy of its disaster management plan, and of any amendment to the plan, to the National Centre and the relevant provincial and municipal disaster management centres.

(b) If a municipal entity fails to submit a copy of its disaster management plan or of any amendment to the plan in terms of paragraph (a), the National Centre or relevant provincial or municipal disaster management centre must report the failure to the executive mayor or mayor, as the case may be, of the municipality concerned, who must take such steps as may be necessary to secure compliance with that paragraph, including reporting the failure to the municipal council.

Disaster management plans for municipal areas

53. (1) Each municipality must—

- (a) prepare a disaster management plan for its area according to the circumstances prevailing in the area;
- (b) co-ordinate and align the implementation of its plan with those of other organs of state and institutional role-players;
- (c) regularly review and update its plan; and
- (d) through appropriate mechanisms, processes and procedures established in terms of Chapter 4 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), consult the local community on the preparation or amendment of its plan.

(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 are likely to occur in the municipal area and their possible effects;
- (c) place emphasis on measures that reduce the vulnerability of disaster-prone areas, communities and households;
- (d) seek to develop a system of incentives that will promote disaster management in the municipality;

- (e) identify the areas, communities or households at risk;
- (f) take into account indigenous knowledge relating to disaster management;
- (g) promote disaster management research;
- (h) identify and address weaknesses in capacity to deal with possible disasters;
- (i) provide for appropriate prevention and mitigation strategies;
- (j) facilitate maximum emergency preparedness; and
- (k) 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 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 and the local municipalities within the area of the district municipality must prepare their disaster management plans after consulting each other.

(4) A municipality must submit a copy of its disaster management plan, and of any amendment to the plan, to the National Centre, the disaster management centre of the relevant province, and, if it is a district municipality or a local municipality, to every municipal disaster management centre within the area of the district municipality concerned.

Responsibilities in event of local disaster

54. (1) Irrespective of whether a local state of disaster has been declared in terms of section 55—

- (a) the council of a metropolitan municipality is primarily responsible for the co-

ordination and management of local disasters that occur in its area; and

- (b) the council of a district municipality, acting after consultation with the relevant local municipality, is primarily responsible for the co-ordination and management of local disasters that occur in its area.

(2) A district municipality and the relevant local municipality may, despite subsection (1)(b), agree that the council of the local municipality assumes primary responsibility for the co-ordination and management of a local disaster that has occurred or may occur in the area of the local municipality.

(3) The municipality having primary responsibility for the co-ordination and management of a local disaster must deal with a local disaster—

- (a) in terms of existing legislation and contingency arrangements, if a local state of disaster has not been declared in terms of section 55(1); or
- (b) in terms of existing legislation and contingency arrangements as augmented by by-laws or directions made or issued in terms of section 55(2), if a local state of disaster has been declared.

(4) This section does not preclude a national or provincial organ of state, or another municipality or municipal organ of state from providing assistance to a municipality to deal with a local disaster and its consequences.

Declaration of local state of disaster

55. (1) In the event of a local disaster the council of a municipality having primary responsibility for the co-ordination and management of the disaster, may by notice in the *provincial gazette* declare a local state of disaster if—

- (a) existing legislation and contingency arrangements do not adequately provide for that municipality to deal effectively with the disaster; or
- (b) other special circumstances warrant the declaration of a local state of disaster.

(2) If a local state of disaster has been declared in terms of subsection (1), the municipal council concerned may, subject to subsection (3), make by-laws or issue directions, or authorise the issue of directions, concerning—

- (a) the release of any available resources of the municipality, including stores, equipment, vehicles and facilities;
- (b) the release of personnel of the municipality for the rendering of emergency services;
- (c) the implementation of all or any of the provisions of a municipal disaster management plan that are applicable in the circumstances;
- (d) 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) the regulation of traffic to, from or within the disaster-stricken or threatened area;
- (f) the regulation of the movement of persons and goods to, from or within the disaster-stricken or threatened area;
- (g) the control and occupancy of premises in the disaster-stricken or threatened area;
- (h) the provision, control or use of temporary emergency accommodation;
- (i) the suspension or limiting of the sale, dispensing or transportation of alcoholic beverages in the disaster-stricken or threatened area;
- (j) the maintenance or installation of temporary lines of communication to, from or within the disaster area;
- (k) the dissemination of information required for dealing with the disaster;
- (l) emergency procurement procedures;
- (m) the facilitation of response and post-disaster recovery and rehabilitation; or
- (n) other steps that may be necessary to prevent an escalation of the disaster, or to alleviate, contain and minimise the effects of the disaster.

(3) The powers referred to in subsection (2) may be exercised only to the extent that this is necessary for the purpose of—

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

(4) By-laws made in terms of subsection (2) may include by-laws prescribing

penalties for any contravention of the by-laws.

- (5) A municipal state of disaster that has been declared in terms of subsection (1) –
- (a) lapses three months after it has so been declared;
 - (b) may be terminated by the council by notice in the *provincial gazette* before it lapses in terms of paragraph (a); and
 - (c) may be extended by the council by notice in the *provincial gazette* for one month at a time before it is to lapse in terms of paragraph (a), or the existing extension is due to expire.

CHAPTER 6

FUNDING OF POST-DISASTER RECOVERY AND REHABILITATION

Guiding principles

56. (1) This Chapter is subject to sections 16 and 25 of the Public Finance Management Act, 1999, which provide for the use of funds in emergency situations.

(2) 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.
- (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.

(3) Any financial assistance provided by a national, provincial or municipal organ of state in terms of subsection (2)(a) must be in accordance with the national disaster management framework and any applicable post-disaster recovery and rehabilitation policy of the relevant sphere of government, and may 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 adequate 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 programmes; and
- (f) the magnitude and severity of the disaster, 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

57. 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 may 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 adequate insurance, and if not, the reasons for the absence or inadequacy of insurance cover; and
- (e) the magnitude and severity of the disaster and whether or not available financial resources at local level, or if it is a provincial disaster, at provincial level, are exhausted.

CHAPTER 7

DISASTER MANAGEMENT VOLUNTEERS

Disaster management volunteers

58. (1) A metropolitan or a district municipality may establish a unit of volunteers to participate in disaster management in the municipality.

(2) Any person that meets the prescribed minimum requirements may apply to enrol as a volunteer in the unit of volunteers of a relevant municipality.

(3) (a) The National Centre must maintain a register of all volunteers enrolled in a unit of volunteers.

(b) A municipality that has established a unit of volunteers must submit the prescribed particulars of any person that has enrolled in terms of subsection (2) to the National Centre within 21 days of such a person's enrolment.

(4) A unit of volunteers may participate in exercises related to disaster management organised by one or more municipal disaster management centres, a provincial disaster management centre or the National Centre.

(5) The Minister may prescribe the following:

- (a) The command structure of a unit of volunteers;
- (b) components within a unit of volunteers;
- (c) the requirements for, and recruitment of, a volunteer;
- (d) the manner in which any member of a unit of volunteers is to be activated and deployed;
- (e) the training of volunteers;
- (f) the use of equipment by volunteers;
- (g) the defraying of expenses incurred by volunteers;
- (h) uniforms of volunteers
- (i) insignia to be worn by –
 - (i) different units of volunteers;
 - (ii) different components within a unit of volunteers; and

- (iii) different positions of command within a unit of volunteers; and
 - (j) the transfer of a volunteer from one unit of volunteers to another unit of volunteers.
- (6) This section does not preclude –
- (a) a municipality to call on persons who are not members of a unit to assist the municipality in dealing with a disaster; or
 - (b) any number of persons to take reasonable steps to deal with a disaster in an appropriate manner until a municipality takes responsibility for that disaster, and, where appropriate, to continue dealing with the disaster under the control of the municipality.

CHAPTER 8 MISCELLANEOUS

Regulations

59. (1) The Minister may make regulations not inconsistent with this Act –
- (a) concerning any matter that—
 - (i) may or must be prescribed in terms of a provision of this Act; or
 - (ii) is necessary to prescribe for the effective carrying out of the objects of this Act; and
 - (b) providing for the payment, out of moneys appropriated by Parliament for this purpose, of compensation to any person, or the dependants of any person, whose death, bodily injury or disablement results from any event occurring in the course of the performance of any function entrusted to such person in terms of this Act.
- (2) Regulations referred to in subsection (1)(b) –
- (a) must –
 - (i) determine the basis upon which and the conditions subject to which compensation must be paid in terms of such regulations;
 - (ii) determine the authority responsible for the administration of such regulations;

- (b) may, without derogating from the generality of the provisions of subsection (1)(b) –
- (i) determine the persons who must be regarded as dependants for purposes of such regulations;
 - (ii) provide for the revision and, in appropriate cases, the discontinuance or reduction of any compensation payable in terms of such regulations;
 - (iii) prohibit the cession, assignment or attachment of any compensation payable in terms of such regulations, or the right to any such compensation;
 - (iv) determine that any compensation received in terms of such regulations must not form part of the estate of the recipient, should such estate be sequestrated;
 - (v) provide that if in the opinion of the authority referred to in paragraph (a)(ii), it is for any reason undesirable to pay the whole amount of any compensation payable in terms of such regulations directly to the person entitled thereto, the said authority may direct that such compensation, or any part thereof, be paid to some other person, on such conditions as to its administration for the benefit of such first-mentioned person or his or her dependants as that authority may determine.

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

(4) Any regulations made by the Minister in terms of subsection (1), must be referred to the National Council of Provinces for purposes of section 146(6) of the Constitution.

Offences

60. (1) A person is guilty of an offence if that person fails to comply with a request made by the National Centre in terms of section 18 (1) or a provincial or municipal disaster management centre in terms of section 32(2)(a) or 46(2)(a).

(2) A person convicted of an offence mentioned in subsection (1) is liable on

conviction to a fine or to imprisonment not exceeding six months or to both a fine and such imprisonment.

Indemnity

61. The Minister, the National Centre, a provincial or municipal disaster management centre, an employee designated for the purpose of the National Centre or a provincial or municipal disaster management centre, a representative of the National Centre or a provincial or municipal disaster management centre, or any other person exercising a power or performing a duty in terms of this Act, is not liable for anything done in good faith in terms of, or in furthering the objects of this Act.

Scope of assistance by organs of state

62. Where an organ of state provides assistance to another organ of state for purposes of this Act, the officials and equipment of the organ of state so providing assistance, must, for purposes of conditions of employment, utilisation of equipment and insurance, be deemed to be deployed within the normal area of jurisdiction of the organ of state providing assistance.

Special events

63. (1) Any organiser of a special event must have a disaster management plan for the special event, which plan must at least provide for the following:

- (a) First aid assistance;
- (b) evacuation procedures;
- (c) emergency fire drills;
- (d) crowd control measures;
- (e) security measures;
- (f) communication links with the relevant municipal disaster management centre; and

(g) sufficient personnel to give effect to the execution of such a disaster management plan.

(2) The head of the relevant municipal disaster management centre may request a copy of a disaster management plan referred to in subsection (1), and if such a plan does not exist, or is deficient, the head of the disaster management centre –

(a) must first take such steps as may be necessary to secure compliance by the said organiser with subsection (1); and

(b) may thereafter cancel the special event in question if the steps referred to in paragraph (a) are unsuccessful to secure compliance by the organiser with subsection (1).

Phasing in of certain provisions of this Act

64. (1) (a) The Minister, by notice in the *Gazette*, may phase in the application of the provisions of this Act which place a financial or administrative burden on organs of state by determining the period within which, and the extent to which, an organ of state must comply with a particular provision of this Act.

(b) The period referred to in paragraph (a) may not exceed two years after the commencement of this Act.

(2) A notice in terms of subsection (1), may –

(a) differentiate between different organs of state;

(b) differentiate between provincial organs of state in the different provinces;

(c) apply to a specific municipal organ of state, subject to the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000); and

(d) determine different periods in respect of different organs of state identified in terms of paragraphs (a) to (c).

Repeal of Act 67 of 1977

65. (1) (a) The Civil Protection Act, 1977 (Act No. 67 of 1977), to the extent that provisions of that Act have not been assigned to a province, is repealed.

(b) Provisions of that Act that were assigned to a province, continue to apply in the province until repealed by the provincial legislature.

(2) Despite the repeal of provisions 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 that section.

Short title and commencement

66. This Act is called the Disaster Management Act, 2002, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

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