
GENERAL NOTICE

NOTICE 637 OF 2013



cooperative governance

Department:
Cooperative Governance
REPUBLIC OF SOUTH AFRICA

INVITATION TO SUBMIT WRITTEN COMMENTS ON THE DISASTER MANAGEMENT AMENDMENT BILL

The Minister of Cooperative Governance and Traditional Affairs invites interested parties to submit written comments on the Disaster Management Amendment Bill contained in the schedule hereto on or before 28 July 2013.

Written comments on the Disaster Management Amendment Bill could be forwarded to Mr Mlungisi Gongqa at mlungisig@ndmc.gov.za

Or

Mailed to:

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The Department of Cooperative Governance
Private Bag X 804
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Fax to 012-334 0810 or 086 655 7635

For the attention of Mr Mlungisi Gongqa
National Disaster Management Centre
The Department of Cooperative Governance

REPUBLIC OF SOUTH AFRICA

DISASTER MANAGEMENT AMENDMENT BILL

*(As introduced in the National Assembly (proposed section 76; explanatory summary of Bill
published in Government Gazette No. 36580 of 19-6-2013)
(The English text is the official text of the Bill)*

(MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS)

[B - 2013]

GENERAL EXPLANATORY NOTE

[] Words in bold type in square brackets indicate omissions from existing enactments

_____ Words underlined with a solid line indicate insertions in existing enactments

BILL

To amend the Disaster Management Act, 2002, so as to substitute and insert certain definitions; to clarify policy focus on rehabilitation and functioning of disaster management centres; to align the functions of the National Disaster Management Advisory Forum to accommodate the South African National Platform for Disaster Risk Reduction; to provide for the South African National Defence Force and South African Police Service to assist the disaster management structures; to provide for an extended reporting system by organs of state on information regarding occurrences leading to the declarations of disasters, expenditure on response and recovery, actions pertaining to risk reduction and particular problems experienced in dealing with disasters; to strengthen reporting on implementation of policy and legislation relating to disaster risk reduction and management of allocated funding to municipal and provincial intergovernmental forums established in terms of the Intergovernmental Relations Act, 2005; to expand the contents of disaster management plans to include conducting disaster risk assessments for functional areas, mapping of risk, areas and communities vulnerable to disasters; to provide measures to reduce the risk of disaster through adaptation to climate change and developing of early warning mechanisms ; to provide for regulations on disaster management, education and training matters; and matters incidental thereto.

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

Amendment of section 1 of Act 57 of 2002

1. Section 1 of the Disaster Management Act, 2002 (Act No.57 of 2002) (hereinafter referred to as principal Act) is hereby amended by—

(a) the insertion before the definition of "**Department**" of the following definitions:

" 'adaptation' means the adjustment in natural or human systems in response to actual or expected climatic stimuli or their effects, which moderates harm or exploits beneficial opportunities;

'climate change' means a change in the climate that persists for decades or longer, arising from either natural causes or human activity;

'community or society' means a group of people living, or having their livelihood, within the geographical boundaries of a local, district or metropolitan municipality which shares a common disaster risk profile;

(b) the substitution for the definition of "**Department**" of the following definition:

" '**Department**' means the principal department that supports the Cabinet member referred to in section 3."

(c) the substitution for the definition of "**disaster**" of the following definition:

" '**disaster**' means a serious disruption or a threatening disruption of the functioning of a community or a society involving widespread human, material, economic or environmental losses and impacts, which exceeds the ability of the affected community or society to cope using its own resources;

(d) the insertion after the definition of "**district municipality**" of the following definition:

" 'disaster risk reduction' means the concept and practice of reducing disaster risks through systematic efforts to analyse and manage the causal factors of disasters, including through reduced exposure to hazards, lessened vulnerability of people and property, wise management of land and the environment, and improved preparedness for adverse events;

- (e) the substitution for the definition of "**mitigation**" of the following definition:

" '**mitigation**' in relation to a disaster, means the lessening or limitation of the adverse impacts of hazards and related disasters;

- (f) the insertion after the definition of "**mitigation**" of the following definition:

" '**municipality**', means a municipality as contemplated in section 2 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

- (g) the insertion after the definition of "**national organ of state**" of the following definition:

" '**national platform for disaster risk reduction**' means a generic term for national mechanisms for coordination and policy guidance on disaster risk reduction that are multi-sectoral and inter-disciplinary in nature, with public, private and civil society participation involving all concerned entities within a country ;

- (h) the substitution for the definition of "**organ of state**" of the following definition:

" '**organ of state**' means a national, provincial, [or] municipal organ of state or any organ of state referred to in the Constitution of the Republic of South Africa, 1996, (No. 108 of 1996).;

- (i) the insertion after the definition "**prescribe**" of the following definition:

" 'preparedness' means the knowledge and capacities developed by governments, professional response and recovery organisations, communities and individuals to effectively anticipate, respond to, and recover from, the impacts of likely, imminent or current hazard events or conditions ;

- (j) the insertion after the definition of "**organ of state**" of the following definition:

" 'recovery' means the restoration, and improvement where appropriate, of facilities, livelihoods and living conditions of disaster-affected communities, including efforts to reduce disaster risk factors;

- (k) the insertion after the definition of "**response**" of the following definition:

" 'risk assessment' means a methodology to determine the nature and extent of risk by analysing potential hazards and evaluating existing conditions of vulnerability that together could potentially harm exposed people, property, services, livelihoods and the environment on which they depend ; and

- (l) the substitution for the definition of "**vulnerability**" of the following definition:

" 'vulnerability' means the characteristics and circumstances of a community, system or asset that make it susceptible to the damaging effects of a hazard."

Amendment of section 5 of Act 57 of 2002

2. Section 5 of the principal Act is hereby amended by the addition after subsection (3) of the following subsection:

"(4) The Forum serves as the South African National Platform for Disaster Risk Reduction."

Substitution of section 8 of Act 57 of 2002

3. The following section is substituted for section 8 of the principal Act:

"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.]"

Substitution of section 10 of Act 57 of 2002

4. The following sub-section is substituted for sub-section 10(2) of the principal Act:

"10. (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."

Substitution of section 11 of Act 57 of 2002

5. The following section is substituted for section 11 of the principal Act:

"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]** Minister may designate another person in the service of, or seconded to, the Department to act as Head of the National Centre."

Substitution of section 13 of Act 57 of 2002

6. The following sub-section is substituted for sub-section 13(2) of the principal Act:

- “13. (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]** Head of the National Centre and that organ of state or organisation.”

Amendment of section 15 of Act 57 of 2002

“ 7. Section 15 of the principal Act is hereby amended by-

- (1) the substitution in subsection (2) for paragraph (b) of the following paragraph and the existing paragraph (b) becomes paragraph (c):

“(b) in any event of a disaster, or a potential disaster, call on the assistance of any law enforcement resource, including, but not limited to the South African National Defence Force and South African Police Service, to assist the disaster management structures; or.”; and

- (2) the deletion of sub-section (3)(c).

Substitution of section 22 of Act 57 of 2002

8. The following sub-section is substituted for sub-section (f) of the principal Act:

- “(f) acting in any other way approved by the **[Director-General of the Department]** Minister.”

Amendment of section 23 of Act 57 of 2002

9. Section 23 of the principal Act is hereby amended by—

- (a) the deletion in subsection (1) of “and” at the end of paragraph (b);
- (b) the substitution in subsection (1) for paragraph (c) of the following paragraph and the existing paragraph (c) becomes paragraph (d):

“(c) inform the relevant provincial disaster management centre of the decision on the classification of the disaster made in terms of paragraph (b)’; and

- (c) the substitution for subsection (8) of the following subsection and the existing subsection (8) becomes subsection (9):

“(8) Each organ of state must, on any occurrence leading to the declaration of a disaster, report on a quarterly basis to the National Centre on—

(a) information reflecting the type, severity, loss in terms of lives, damage to property, crop and other goods;

(b) information on the expenditure incurred on response, recovery and rehabilitation;

(c) listing of any actions in terms of risk reduction;

(d) particular problems that were experienced in dealing with the disasters; and

(e) any other information that may be prescribed.”

Amendment of section 24 of Act 57 of 2002

10. Section 24 of the principal Act is hereby amended by—

- (a) the substitution for the heading of the following heading:

“[Annual report] Reporting”

- (b) the addition after subsection (3) of the following subsections:

“(4) Progress reports on the implementation of policy and legislation relating to disaster risk reduction and management in

the municipalities and provinces must be submitted on a quarterly basis to the municipal and provincial intergovernmental forums established in terms of the Intergovernmental Relations Framework Act, 2005 (Act No.13 of 2005).

(5) If money has been allocated to a national department, province or municipality from the national revenue for purposes of disaster mitigation, relief, recovery and rehabilitation - whether in the form of new funding or from current institutional funds, a progress report on the spending of that money must be submitted on a quarterly basis to the municipal, provincial and national intergovernmental forums established in terms of the Intergovernmental Relations Framework Act, 2005.

(6) Copies of reports referred to in sections (4) and (5) must be submitted simultaneously to the National Treasury and the relevant disaster management centres in the respective spheres of government.”

Amendment of Section 25 of Act 57 of 2002

11. Section 25 of the principal Act is hereby amended by—

(a) the substitution for subsection (1) of the following subsection:

“(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) conduct a disaster risk assessment for its functional area;
- (d) map risks, areas and communities vulnerable to disasters;
- (e) provide measures and indicate how it will invest to reduce the risk of disaster and adapt to climate change, including ecosystem and community based approaches;
- (f) develop early warning mechanisms and procedures for risks identified in its functional area; and;

[(c)](g) regularly review and update its plan.” and

(b) the substitution in subsection (3) for paragraph (a) of the following paragraph:

“(a) A national organ of state must submit a copy of its disaster management plan and of any amendment of the plan to the National Centre [.] provided that copies of any disaster management plans by national public entities defined in section 1 of the Public

Finance Management Act (Act No. 1 of 1999), submitted to a national organ of state, are also submitted to the National Centre."

Amendment of section 38 of Act 57 of 2002

12. Section 38 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Each provincial organ of state indicated in the national or provincial disaster management framework must, within the applicable provincial disaster management framework—

- (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) conduct a disaster risk assessment for its functional area;
- (d) map risks, areas and communities vulnerable to disasters;

(e) provide measures and indicate how it will invest to reduce the risk of disaster and adapt to climate change, including ecosystem and community approaches;

(f) develop early warning mechanisms and procedures for risks identified in its functional area; and

[(c)] (g) regularly review and update its plan."

Amendment of section 43 of Act 57 of 2002

13. Section 43 of the principal Act is hereby amended by the addition after subsection (2) of the following subsections:

"(3) A local municipality must establish capacity for the development and coordination of a disaster management plan and the implementation of a disaster management function for the municipality which forms part of the disaster management plan as approved by the relevant municipal disaster management centre.

(4) A local municipality may establish a disaster management centre in consultation with the relevant district municipality in accordance with the terms set out in a service level agreement between the two parties, in line with national norms and standards."

Substitution of heading to Part 3 of Chapter 5 of Act 57 of 2002

14. The heading to Part 3 of Chapter 5 of the principal Act is hereby substituted for the following heading:

"Powers and duties of municipalities and administrative units of the municipality [and municipal entities]"

Amendment of section 52 of Act 57 of 2002.

15. Section 52 of the principal Act is hereby amended by—

(a) the substitution for the heading to Part 3 of Chapter 5 of the following heading:

"Preparation of disaster management plans by administrative units of the municipality [municipal entities]

(b) the substitution for subsection (1) of the following subsection:

(1) Each **[municipal entity]** administrative unit, including departments and other functional or business units of the municipality 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) conduct a disaster risk assessment for its functional area;

(d) map risks, areas and communities vulnerable to disasters;

(e) provide measures and indicate how it will invest to reduce the risk of disaster and adapt to climate change, including ecosystem and community based approaches;

(f) develop early warning mechanisms and procedures for risks identified in its functional area; and

[(c)] (g) regularly review and update its plan."

(c) the substitution in subsection (1) for paragraph (b) of the following paragraph:

"(b) co-ordinate and align the implementation of its plan with those of other organs of state and institutional role-players, **[and]**; and

(d) the substitution for subsection (2) of the following subsection:

"(2) (a) **[A municipal entity]** An administrative unit of a municipality 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]** an administrative unit of a municipality 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."

Amendment of section 59 of Act 57 of 2002

16. Section 59 of the principal Act is hereby amended by the substitution of subsection (1) of the following subsection:

"(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 dependents 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 **[.] and**

(c) concerning the focus areas of the national disaster management education and training framework."

Substitution of long title of Act 57 of 2002

17. The long title of the principal Act is hereby amended by the substitution of the following long title:

"To provide for—

- an integrated and coordinated policy that focuses on preventing or reducing the risk of disasters, mitigating the severity of disasters, rapid and

effective response to disasters and post-disaster recovery and rehabilitation;

- the establishment and functioning of national, provincial and municipal disaster management centres;
- disaster management volunteers; and
- matters incidental thereto."

Short title and commencement

18. This Act is called the Disaster Management Amendment Act, 2013 and comes into operation on a date determined by the President by Proclamation in the *Gazette*.
