

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. of) (The English text is the
official text of the Bill)*

(MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS)

[B — 2015]

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, South African Police Service and any other organ of state 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 Framework Act, 2005; to strengthen the representation of traditional leaders in national, provincial and municipal disaster management advisory forums; to expand the contents of disaster management plans to include the conducting of disaster risk assessments for functional areas and the mapping

of risks, areas and communities that are 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, training and research matters and declaration and classification of disasters; and to provide for 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 (hereinafter referred to as the principal Act), is hereby amended—

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

" **'adaptation'** means—

(a) in relation to human systems, the process of adjustment to actual or expected climate and its effects, in order to moderate harm or exploit beneficial opportunities; and

(b) in relation to natural systems, the process of adjustment to actual climate and its effects;

'climate change' means a change in the state of the climate that can be identified by changes in the variability of its properties and that persists for an extended period, typically decades or longer;";

(b) by 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) by the substitution for subparagraph (iii) of paragraph (a) of the definition of "disaster" of the following subparagraph:

"(iii) significant disruption of the life of a community; and";

(d) by the insertion after the definition of "disaster management" of the following definition:

" **'disaster risk reduction'** means both a policy goal or objective, and the strategic and instrumental measures employed for—

(a) anticipating future disaster risk;

(b) reducing existing exposure, hazard, or vulnerability; and

(c) improving resilience;";

(e) by the insertion after the definition of "district municipality" of the following definition:

" **'ecosystem'** means a system of relationships between animals and plants and their environment;"

(f) by the substitution for the definition of "emergency preparedness" of the following definition:

" **'emergency preparedness'** means—

(a) 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; and

(b) 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:";

(g) by the substitution for the definition of "mitigation" of the following definition:

" **'mitigation'**, in relation to—

(a) a disaster or disaster risk, means the lessening of the potential adverse impacts of physical hazards, including those that are human-induced, through actions that reduce hazard, exposure, and vulnerability; or

(b) climate change, means a human intervention to reduce the sources or enhance the sinks of greenhouse gases;";

(h) by the insertion after the definition of "municipal entity" 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);"

(i) by 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] any organ of state referred to in section 239 of the Constitution of the Republic of South Africa, 1996;";

(j) by the substitution for the definition of "post-disaster recovery and rehabilitation" of the following definition:

" **'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 by the restoration, and improvement, where appropriate, of facilities,

livelihoods and living conditions of disaster-affected communities, including efforts to reduce disaster risk factors;

- (b) the effects of a disaster are mitigated; or
- (c) circumstances are created that will reduce the risk of a similar disaster occurring;"

(k) by 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) by the substitution for the definition of "vulnerability" of the following definition:

" 'vulnerability' means the conditions determined by physical, social, economic and environmental factors or processes, which increase the susceptibility of a community to the impact of hazards."

Amendment of section 5 of Act 57 of 2002

2. Section 5 of the principal Act is hereby amended—

(a) by the substitution for subparagraph (vi) of paragraph (e) of subsection (1) of the following subparagraph:

"(vi) traditional leaders as recommended by the National House of Traditional Leaders established by section 2 of the National House of Traditional Leaders Act, 2009 (Act No. 22 of 2009);"

and

(b) by the addition 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 hereby 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.]"

Amendment of section 10 of Act 57 of 2002

4. Section 10 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(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 hereby substituted for section 11 of the principal Act:

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

Amendment of section 13 of Act 57 of 2002

6. Section 13 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

"(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—

- (a) by the insertion after paragraph (a) of subsection (2) of the following paragraph:

"(aA) in any event of a disaster, or a potential disaster, call on the South African National Defence Force, South African Police Service and any other organ of state to assist the disaster management structures: "; and

- (b) by the addition of the word "and" at the end of paragraph (b) of subsection (3) and the deletion of paragraph (c) of that subsection.

Amendment of section 22 of Act 57 of 2002

8. Section 22 of the principal Act is hereby amended by the substitution for paragraph (f) of the following paragraph:

"(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—

- (a) by the deletion in subsection (1) of the word "and" at the end of paragraph (b) and the insertion after that paragraph of the following paragraph:

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

- (b) by the substitution for paragraph (a) of subsection (5) of the following paragraph:

- "(a) it affects—
- (i) more than one metropolitan or district municipality in the same province; or
 - (ii) a single metropolitan or district municipality in the province 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] and**
 - [(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]**".

Amendment of section 24 of Act 57 of 2002

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

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

"[Annual reports] Reporting"; and

- (b) by the addition of the following subsections:

"(4) 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) the spatial attributes of the areas, communities and households affected by the disaster;

(c) information on the expenditure incurred on response and post-disaster recovery and rehabilitation;

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

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

(f) any other information that may be prescribed.

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

(6) If money has been allocated to a national department, province or municipality from the national revenue for purposes of disaster mitigation, relief and post-disaster 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.

(7) Expenditure and performance reports for all funds received must be compiled by each organ of state and submitted to the transferring national officers and the National Treasury in accordance with the annual Division of Revenue Act.

(8) Copies of reports referred to in subsections (4), (5) and (6) 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—

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

"(1) Each national organ of state must—

(a) conduct a disaster risk assessment for its functional area;

(b) identify and map risks, areas, ecosystems, communities and households that are exposed or vulnerable to physical and human-induced threats;

(c) 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, including expected climate change impacts and risks for the organ of state;

(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;

- (d) co-ordinate and align the implementation of its plan with those of other organs of state and institutional role-players;
- (e) provide measures and indicate how it will invest in disaster risk reduction and climate change adaptation, including ecosystem and community-based adaptation approaches;
- (f) develop early warning mechanisms and procedures for risks identified in its functional area; and
- (g) regularly review and update its plan."

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

"(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, provided a copy of a disaster management plan by a major public entity listed in Schedule 2 to the Public Finance Management Act, 1999 (Act No. 1 of 1999), submitted to a national organ of state, must also be submitted to the National Centre." and

(c) by the addition to subsection (3) of the following paragraph:

"(c) The National Centre must make available applicable disaster management plans of organs of state to relevant provincial and municipal disaster management centres."

Amendment of section 37 of Act 57 of 2002

12. Section 37 of the principal Act is hereby amended by the substitution for subparagraph (v) of paragraph (e) of subsection (1) of the following subparagraph:

"(v) traditional leaders as recommended by the National House of Traditional Leaders established by section 2 of the National House of Traditional Leaders Act, 2009 (Act No. 22 of 2009)";".

Amendment of section 38 of Act 57 of 2002

13. 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 must—

- (a) conduct a disaster risk assessment for its functional area;
- (b) identify and map risks, areas, ecosystems, communities and households that are exposed or vulnerable to physical and human-induced threats;
- (c) 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, including expected climate change impacts and risks for the organ of state;
 - (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;

- (d) co-ordinate and align the implementation of its plan with those of other organs of state and institutional role-players;
- (e) provide measures and indicate how it will invest in disaster risk reduction and climate change adaptation, including ecosystem and community-based adaptation approaches;
- (f) develop early warning mechanisms and procedures for risks identified in its functional area; and
- (g) regularly review and update its plan."

Amendment of section 43 of Act 57 of 2002

14. Section 43 of the principal Act is hereby amended by the addition of the following subsections:

"(3) A local municipality must establish capacity for the development and co-ordination 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 alignment with national norms and standards."

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

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

*"Powers and duties of **[municipalities and municipal entities]**municipal organs of state".*

Amendment of section 51 of Act 57 of 2002

16. Section 51 of the principal Act is hereby amended by the substitution for subparagraph (iv) of paragraph (d) of subsection (1) of the following subparagraph:

"(iv) traditional leaders as recommended by the National House of Traditional Leaders established by section 2 of the National House of Traditional Leaders Act, 2009 (Act No. 22 of 2009)";

Amendment of section 52 of Act 57 of 2002

17. Section 52 of the principal Act is hereby amended—

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

"Preparation of disaster management plans by municipal [entities] organs of state other than municipalities";

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

"(1) Each municipal organ of state other than a municipality must—

- (a) conduct a disaster risk assessment for its functional area;
- (b) identify and map risks, areas, ecosystems, communities and households that are exposed or vulnerable to physical and human-induced threats;
- (c) 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, including expected climate change impacts and risks for that municipal entity or administrative unit;
 - (ii) its role and responsibilities in terms of the national, provincial or municipal 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;
- (d) co-ordinate and align the implementation of its plan with those of other organs of state and institutional role-players;
- (e) provide measures and indicate how it will invest in disaster risk reduction and climate change adaptation, including ecosystem and community-based adaptation approaches;
- (f) develop early warning mechanisms and procedures for risks identified in its functional area; and
- (g) regularly review and update its plan."; and

(c) by the substitution for subsection (2) of the following subsection:

"(2) (a) A municipal **[entity]** organ of state referred to in subsection (1) must submit a copy of its disaster management plan, and of any amendment to the plan, to the **[National Centre and the]** relevant **[provincial and]** municipal disaster management **[centres]** centre.

(b) If a municipal **[entity]** 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 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 53 of Act 57 of 2002

18. Section 53 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Each municipality must—

(a) conduct a disaster risk assessment for its municipal area;

(b) identify and map risks, areas, ecosystems, communities and households that are exposed or vulnerable to physical and human-induced threats;

(c) 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 municipal area, including expected climate change impacts and risks for the municipality;
- (ii) its role and responsibilities in terms of the national, provincial or municipal 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;
- (d) co-ordinate and align the implementation of its plan with those of other organs of state and institutional role-players;
- (e) provide measures and indicate how it will invest in disaster risk reduction and climate change adaptation, including ecosystem and community-based adaptation approaches;
- (f) develop early warning mechanisms and procedures for risks identified in the municipal area; and
- (g) regularly review and update its plan."

Amendment of section 59 of Act 57 of 2002

19. Section 59 of the principal Act is hereby amended by the substitution for 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 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;
- (c) concerning the focus areas of the national disaster management education, training and research frameworks; and
- (d) concerning the declaration and classification of disasters."

Substitution of long title of Act 57 of 2002

20. The following long title is hereby substituted for the long title of the principal Act:

"ACT

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 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

21. This Act is called the Disaster Management Amendment Act, 2015 and comes into operation on a date determined by the President by proclamation in the *Gazette*.