
IMPLEMENTATION IMPLICATIONS

Disaster Management Amendment Act, 2015 (Act No. 16 of 2015)

SOUTH AFRICA

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1. INTRODUCTION

1.1 Background

Legislation is regarded as one of the three main functions of a democratic government, which are often distinguished under the doctrine of ‘the separation of powers’. Those who have the formal power to ‘create’ legislation are known as legislators; the judicial branch of government have the formal power to ‘interpret’ and ‘adjudicate’ on legislation (called statutory interpretation); and the executive branch of government to implement legislation within the powers and limits set by the law.

South Africa¹ is a constitutional democracy with a three-tier system of government² and an independent judiciary. The Constitution, 1996 not only separates power between this tiered system but also mandates that each of the three tiers of government - national, provincial and local - is ‘distinctive, interdependent and interrelated’ with a legislative and executive authority of its own. The national legislative authority is vested in Parliament.

1.2 Assent to the Disaster Management Amendment Act, 2015

Since 2011, following ministerial approval, the National Disaster Management Centre (NDMC) has been working with stakeholders in disaster management to amend the Disaster Management Act, 2002 (Act No. 57 of 2002) (DMA). During 2015 the Disaster Management Amendment Bill was submitted to, processed and approved by Parliament³.

The President, by Presidents Act No. 454 of 2015, assented to the Disaster Management Amendment Act, 2015 (Act No. 16 of 2015) (DMAA) which was published in Government Gazette No.39520 on 15 December 2015.

¹ <http://www.southafrica.info/about/government/gov.htm#.VxTZk-hf3cs>

² Legislative authority resting with Parliament, Provincial Legislatures and Municipal Councils; and administrative authority resting with the National Executive, Provincial Executive and Local Councillors

³ S42 (1) of the Constitution indicates that Parliament consists of the National Assembly and the National Council of Provinces



1.3 Commencement of the Disaster Management Amendment Act, 2015

Section 24 of the DMAA states that the DMAA comes into operation on a date to be determined by the President by proclamation in the Gazette. The President, by proclamation 24 of 2016, published in Gazetted No. 39943, proclaimed 1 May 2016 as the date on which the DMAA will come into operation.

1.4 Implementation of the DMAA

Once legislators make law, the executive across the three tiers of government through the actions of public servants working within the public service, starts a process to implement the provisions of the law using planning, organising, staffing, directing and controlling. The President, with the launch of the outcomes approach to implementation in 2010, pointed out that as government we cannot continue to implement legislation in the same way and expect different results. He pointed out that we need to carefully think about what needs to be achieved and what is the best way of doing this within our available resources to ensure that the outcome achieved is valuable to the public and society (SA, 2010: 8).

1.5 Outcomes approach

The outcomes approach clarifies what we expect to achieve, how we expect to achieve it and how we will know whether we are achieving it. Outcomes planning therefore means planning backwards from the outcome we need to achieve to work out how best to achieve it given the resources available. It starts with identifying what outcome must be achieved and then working out what outputs will ensure that we achieve it, what activities we must do to achieve the outputs and what inputs are needed to achieve the activities (SA, 2010: 8). **Figure 1** shows the link between inputs, activities, outputs, outcomes and ultimately long term impact.

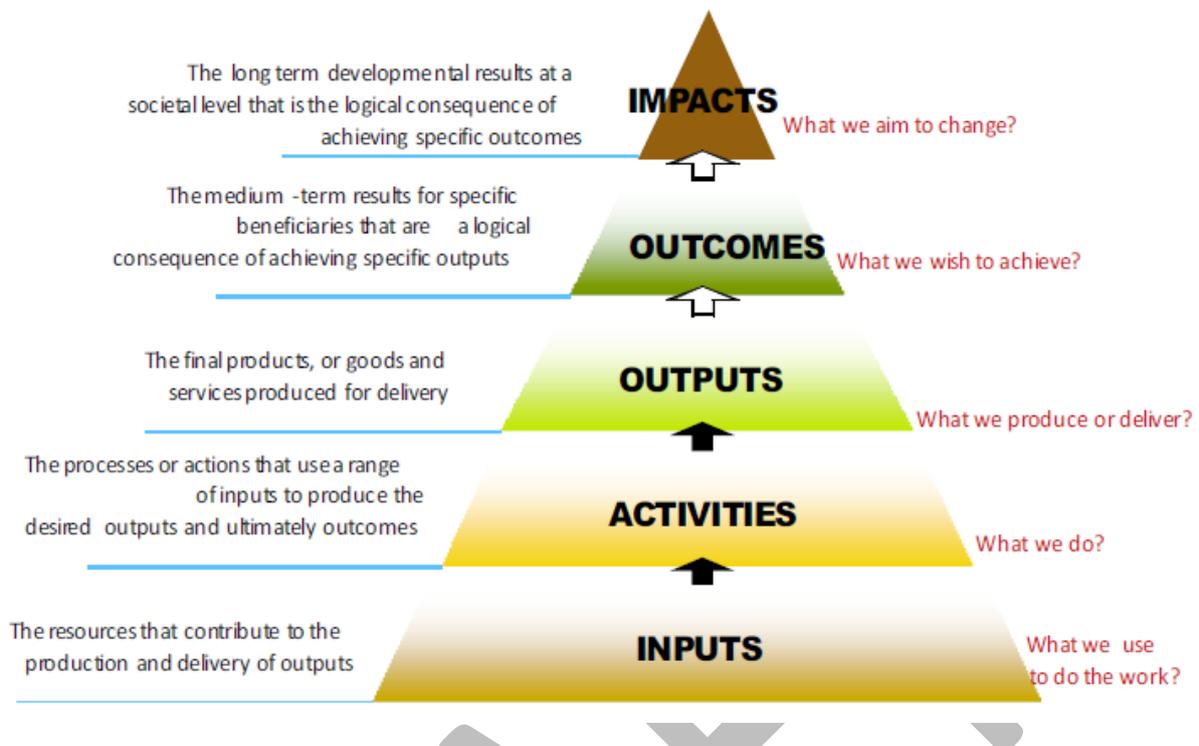


Figure 1: Link between Inputs, Activities, Outputs, Outcomes and Impact (SA, 2010: 10)

Applying the outcomes approach methodology to the implementation planning of the DMAA requires that the Inputs, Activities, Outputs and Outcomes for each of the amendments be identified. However, given the constitutional independence of the spheres of government and given the increased complexity in identifying government wide inputs and activities related to the achievement of the legislated obligations, this implementation implication analysis will focus only on identifying the outcomes and outputs of the DMAA.

1.6 Defining ‘Outcome’ and ‘Output’

The Policy Framework for the Government-wide Monitoring and Evaluation system points out that government’s major challenge is to become more effective. The policy states that monitoring and evaluation (M&E) can be used to improve legislative (and policy) implementation but to do so, key terms must be defined to be universally used.



In this respect the terms 'outcome' and 'output' are defined as,

Outcome — The effects, benefits or consequences that occur due to the outputs achieved.

Output — The final products or goods and services produced.

Having alluded to the outcomes approach and defining what constitutes an outcome and output, before the identification process can begin, it is prudent to provide a brief overview of the DMAA.

2. BRIEF OVERVIEW OF THE DMAA

The key amendments of the DMAA center around strengthening the reporting requirements to ensure that issues of disaster management and disaster risk reduction are elevated to the key intergovernmental structures where executive decisions are made at each sphere of government. This includes reporting on the implementation of policy and legislation relating to disaster risk reduction and management of funding allocated for disaster management to municipal and provincial governments. It is expected that this approach should elevate the function and provide it with the priority it deserves. It should also lead to enhanced accountability for disaster management.

Other amendments bring extensive requirements for each organ of state to know and consider the risks it is facing and to improve integrated planning. Principles of disaster management are to be applied in each functional area, including expected climate change impacts and risks for the organ of state. Organs of state should also identify and map risks, areas, ecosystems, communities and households that are exposed and vulnerable to physical and human-induced threats.

The emphasis is on identifying those most at risk, those communities that are vulnerable to disasters such as floods and shack fires, which often cut a swathe through informal settlements, frequently leaving hundreds homeless in their wake. Risk reduction projects should be implemented to address these risks.



Other provisions include the representation of traditional leaders in the disaster management advisory forums, providing for the National Disaster Management Advisory Forum to serve as the SA National Platform for Disaster Risk Reduction thereby incorporating the obligations set out in global commitments (Hyogo Framework of Action, followed by Sendai Framework for DRR), emphasising the responsibility of organs of state to assist the disaster management structures and granting the Minister authority to make regulations on education, training, research and the classification and declaration of disasters.

Some of the other amendments includes the recognition of gender, age, disability and cultural perspectives and the principle of “build back better”. For instance, the NDMC must be provided with a list of the measures implemented in order to restore communities and the reconstruction and rehabilitation of infrastructure in a manner that makes those communities less vulnerable to disasters and strengthens their resilience. The legislation also now prescribes that an analysis be done of the impact of a disaster in accordance with gender, age, disability and cultural perspectives.

These requirements are in line with the Sendai Framework for Disaster Risk Reduction (2015-2030) that has been adopted by UN Member States during March 2015. This places South Africa in the forefront of incorporating Sendai commitments into domestic legislation.

The importance of disaster management planning at each sphere of government has been emphasised. The amendments re-affirm the role of municipalities to establish capacity for the development and coordination of a multi-sector disaster management plan and the implementation of a disaster management function for the municipality.

The amendments also acknowledge the need in some areas to establish a disaster management centre in a Local Municipality (LM) and subsequently provides for the establishment of a disaster management centre for a LM in terms of a service level agreement with the relevant district municipality. Given these amendments it is clear that the DMAA has significant implementation implication.



3. IMPLEMENTATION IMPLICATIONS OF THE DMAA

The implementation implications of the DMAA is analysed by first providing the full provision with the amendments highlighted in red. Apart from the amendments listed in paragraphs **3.1**; **3.18**; **3.23** and **3.24**, which do not require the identification of an outcome, all of the remaining amendments' outcome(s) and output(s) are identified.

3.1 Amendment of Section 1 of Act 57 of 2002

1. Definitions

In this Act, unless the context indicates otherwise-

'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;

[Definition of 'adaptation' inserted by s. 1 (a) of Act 16 of 2015 (wef 1 May 2016).]

'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;

[Definition of 'climate change' inserted by s. 1 (a) of Act 16 of 2015 (wef 1 May 2016).]

'Department' means the principal department that supports the Cabinet member referred to in section 3;

[Definition of 'Department' substituted by s. 1 (b) of Act 16 of 2015 (wef 1 May 2016).]

'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) **significant** disruption of the life of a community; and

[Sub-para. (iii) substituted by s. 1 (c) of Act 16 of 2015 (wef 1 May 2016).]

- (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-



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- (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;

'disaster risk reduction' means either 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;

[Definition of 'disaster risk reduction' inserted by s. 1 (d) of Act 16 of 2015 (wef 1 May 2016).]

'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;

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

[Definition of 'ecosystem' inserted by s. 1 (e) of Act 16 of 2015 (wef 1 May 2016).]

'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;

[Definition of 'emergency preparedness' substituted by s. 1 (f) of Act 16 of 2015 (wef 1 May 2016).]

'integrated development plan', in relation to a municipality, means a plan envisaged in section 25 of the Local Government: Municipal Systems Act, 2000 (Act 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) 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;

[Definition of 'mitigation' substituted by s. 1 (g) of Act 16 of 2015 (wef 1 May 2016).]

'**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;

'**municipality**' means a municipality as contemplated in section 2 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

[Definition of 'municipality' inserted by s. 1 (h) of Act 16 of 2015 (wef 1 May 2016).]

'**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 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 1 of 1999);

'**organ of state**' means any organ of state referred to in section 239 of the Constitution of the Republic of South Africa, 1996;

[Definition of 'organ of state' substituted by s. 1 (i) of Act 16 of 2015 (wef 1 May 2016).]

'**post-disaster recovery and rehabilitation**' means efforts, including development, aimed at creating a situation where-



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- (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;

[Definition of 'post-disaster recovery and rehabilitation' substituted by s. 1 (j) of Act 16 of 2015 (wef 1 May 2016).]

'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 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;

'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;

[Definition of 'risk assessment' inserted by s. 1 (k) of Act 16 of 2015 (wef 1 May 2016).]

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

[Definition of 'vulnerability' substituted by s. 1 (l) of Act 16 of 2015 (wef 1 May 2016).]

[Date of commencement of s. 1 in so far as it does not relate to Chapters 2, 3 and 4: 1 July 2004.]

3.2 Amendment of Section 5 of Act 57 of 2002

3.2.1 Section 5: Amended provision

5. National Disaster Management Advisory Forum

(1) The Minister must establish a National Disaster Management Advisory Forum consisting of-



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- (a) the Head of the National Centre;
- (b) a senior representative of each national department whose Minister is a member of the Intergovernmental 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) municipal officials selected by the South African Local Government Association;
- (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 as recommended by the National House of Traditional Leaders established by section 2 of the National House of Traditional Leaders Act, 2009 (Act 22 of 2009);
[Sub-para. (vi) substituted by s. 2 (a) of Act 16 of 2015 (wef 1 May 2016).]
 - (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;
 - (xiii) institutions that can provide scientific and technological advice or support to disaster management; and
 - (xiv) representatives of national umbrella organisations for women, children, the elderly and people with disabilities;
[Sub-para. (xiv) added by s. 2 (b) of Act 16 of 2015 (wef 1 May 2016).]
- (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 Intergovernmental Committee on Disaster Management; and
- (ii) may advise any organ of state, statutory functionary, non-governmental organisation or community or the private sector on any matter relating to disaster management.

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

[Sub-s. (4) added by s. 2 (b) of Act 16 of 2015 (wef 1 May 2016).]

3.2.2 Section 5: Implementation implications

| Outcome 1: Traditional leadership informs the national governance of Disaster Management. | | |
|--------------------------------------------------------------------------------------------------|---------------------------------|------------------------------|
| Output(s) | Responsibility (LPM) | Time frame / due date |
| 1. Traditional Leaders of the NHTL participate in the NDMAF. | Designated traditional leaders. | Ongoing process. |

| Outcome 2: Vulnerable groups including women, children, the elderly and people with disabilities informs national governance of Disaster Management. | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|------------------------------|
| Output(s) | Responsibility (LPM) | Time frame / due date |
| 1. Selected National representatives of umbrella organisations for women, children, the elderly and people with disabilities participate in the NDMAF. | National representatives of umbrella organisations for women, children, the elderly and people with disabilities. | Ongoing process. |



Outcome 3: The NDMAF serves as an advocate of disaster risk reduction at different levels and provides coordination, analysis and advice on areas of priority requiring concerted action through a coordinated and participatory process.

| Output(s) | Responsibility (LPM) | Time frame / due date |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|-----------------------|
| 1. The NDMAF serves as the South African National Platform for Disaster Risk Reduction in compliance with the requirements of a national platform set out by the United Nations. | NDMC | Ongoing Process. |

3.3 Substitution of Section 8 of Act 57 of 2002

3.3.1 Section 8: Amended provision

8. Establishment

A National Disaster Management Centre is established as an institution within the public service.

[S. 8 substituted by s. 3 of Act 16 of 2015 (wef 1 May 2016).]

3.3.2 Section 8: Implementation implications

Outcome 1: The NDMC is established to enable direct service delivery through a focussed and ring fenced entity.

| Output(s) | Responsibility | Time frame / due date |
|---------------------------------------------------------------------|----------------|-----------------------------------------------------|
| 1. The NDMC is established as an institution in the public service. | NDMC | Within three years of the commencement of the DMAA. |



3.4 Amendment of Section 10 of Act 57 of 2002

3.4.1 Section 10: Amended provision

10. Appointment of Head

(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 reports to the Minister and holds office on terms and conditions set out in a written employment contract which must include terms and conditions setting performance standards.

[Sub-s. (2) substituted by s. 4 of Act 16 of 2015 (wef 1 May 2016).]

3.4.2 Section 10: Implementation implications

| Outcome 1: The Head: NDMC is appointed by and reports to the Minister. | | |
|------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------|------------------------------|
| Output(s) | Responsibility | Time frame / due date |
| 1. The Head: NDMC functions within the terms and conditions set out in a written employment contract which must include performance standards. | Minister | As required. |

3.5 Substitution of Section 11 of Act 57 of 2002

3.5.1 Section 11: Amended provision

11. Acting Head

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

[S. 11 substituted by s. 5 of Act 16 of 2015 (wef 1 May 2016).]



3.5.2 Section 11: Implementation implications

| Outcome 1: An Acting Head: NDMC is appointed by and reports to the Minister. | | |
|-------------------------------------------------------------------------------------|----------------|-----------------------|
| Output(s) | Responsibility | Time frame / due date |
| 1. Acting Head: NDMC appointed. | Minister | As required. |

3.6 Amendment of Section 13 of Act 57 of 2002

3.6.1 Section 13: Amended provision

13. Staff

(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 **Head of the National Centre** and that organ of state or organisation.

[Sub-s. (2) substituted by s. 6 of Act 16 of 2015 (wef 1 May 2016).]

(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.

3.6.2 Section 13: Implementation implications

| Outcome 1: Staff is seconded to the NDMC when needed. | | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------------------|
| Output(s) | Responsibility | Time frame / due date |
| 1. The secondment of staff to the NDMC is agreed to between the Head: National Centre and that other organ of state in terms of a secondment protocol. | Head: NDMC | As required. |



3.7 Amendment of Section 15 of Act 57 of 2002

3.7.1 Section 15: Amended provision

15. General powers and duties

(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 disaster management capacity building, training and education throughout the Republic, including in schools, and, to the extent that it 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 effective performance of its duties;

(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;

[Para. (aA) inserted by s. 7 (a) of Act 16 of 2015 (wef 1 May 2016).]

(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; and

(c)

[Para. (c) deleted by s. 7 (b) of Act 16 of 2015 (wef 1 May 2016).]

(d) subject to the Public Finance Management Act, 1999 (Act 1 of 1999).

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

3.7.2 Section 15: Implementation implications

| Outcome 1: The disaster management structures are assisted by the South African National Defence Force, South African Police Service and any other organ of state. | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|-----------------------|
| Output(s) | Responsibility | Time frame / due date |
| 1. The NDMC calls on the South African National Defence Force, South African Police Service and any other organ of state to assist the disaster management structures. | Head: NDMC | As needed. |



3.8 Amendment of Section 22 of Act 57 of 2002

3.8.1 Section 22: Amended provision

22. Giving of advice and guidance

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 Minister.

3.8.2 Section 22: Implementation implications

| Outcome 1: The NDMC uses various mechanisms to give advice and guidance to stakeholders | | |
|------------------------------------------------------------------------------------------------|----------------|-----------------------|
| Output(s) | Responsibility | Time frame / due date |
| 1. The NDMC gives advice and guidance by acting in any other way approved by the Minister. | NDMC | As required. |

3.9 Amendment of Section 23 of Act 57 of 2002

3.9.1 Section 23: Amended provision

23. Classification and recording of disasters

(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-



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

[Para. (bA) inserted by s. 9 (a) of Act 16 of 2015 (wef 1 May 2016).]

- (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; 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; and**

[Para. (a) substituted by s. 9 (b) of Act 16 of 2015 (wef 1 May 2016).]

- (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.

3.9.2 Section 23: Implementation implications

| Outcome 1: The NDMC designated the intergovernmental coordination and management of a disaster to a particular sphere of government and inform them accordingly. | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|---------------------------------------------|
| Output(s) | Responsibility | Time frame / due date |
| 1. Disasters that threaten to occur or occurs are classified by the NDMC to designate primary coordination of the disaster to a sphere of government. | NDMC | As required. |
| 2. The NDMC informs the PDMC of the decision on the classification of the disaster as a local, provincial or national disaster. | NDMC | Within 24 hrs of making the classification. |

3.10 Amendment of Section 24 of Act 57 of 2002

3.10.1 Section 24: Amended provision

24. Reporting

[Heading substituted by s. 10 (a) of Act 16 of 2015 (wef 1 May 2016).]

(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;



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- (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 that report to each provincial and municipal disaster management centre.

(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) an analysis of the impact of the disaster in accordance with gender, age, disability and cultural perspectives;
- (d) a list of the measures implemented in order to restore communities and the reconstruction and rehabilitation of infrastructure in a manner that makes those communities less vulnerable to disasters and strengthens their resilience;
- (e) information on the expenditure incurred on response and post-disaster recovery and rehabilitation;
- (f) listing of any actions in terms of risk reduction;
- (g) particular problems that were experienced in dealing with the disasters; and
- (h) any other information that may be prescribed.

[Sub-s. (4) added by s. 11 of Act 16 of 2015 (wef 1 May 2016).]



(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 13 of 2005).

[Sub-s. (5) added by s. 11 of Act 16 of 2015 (wef 1 May 2016).]

(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.

[Sub-s. (6) added by s. 11 of Act 16 of 2015 (wef 1 May 2016).]

(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.

[Sub-s. (7) added by s. 11 of Act 16 of 2015 (wef 1 May 2016).]

(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.

[Sub-s. (8) added by s. 11 of Act 16 of 2015 (wef 1 May 2016).]

3.10.2 Section 24: Implementation implications

| Outcome 1: Improved intergovernmental reporting on disaster management by organs of state. | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|------------------------------|
| Output(s) | Responsibility | Time frame / due date |
| 1. Disaster occurrence report submitted to the NDMC and National Treasury. | All organs of state across spheres. | Quarterly. |
| 2. Policy and legislation progress report submitted to municipal, provincial and national intergovernmental forums, the National Treasury and the relevant disaster management centres in the respective spheres of government. | MDMC's and PDMC's. | Quarterly. |



| | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------|------------|
| 3. Disaster mitigation, relief and post-disaster recovery and rehabilitation report submitted to municipal, provincial and national intergovernmental forums, the National Treasury and the relevant disaster management centres in the respective spheres of government. | Organs of state in Municipalities, Provinces and National government. | Quarterly. |
| 4. Quarterly expenditure and performance reports submitted to National Treasury. | Organs of state in Municipalities, Provinces and National government. | Quarterly. |

3.11 Amendment of Section 25 of Act 57 of 2002

3.11.1 Section 25: Amended provision

25. Preparation of disaster management plans

(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;
 - (vi) contingency strategies and emergency procedures in the event of a disaster, including measures to finance these strategies; and



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- (vii) specific measures taken to address the needs of women, children, the elderly and persons with disabilities during the disaster management process;
- (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.

[Sub-s. (1) substituted by s. 11 (a) of Act 16 of 2015 (wef 1 May 2016).]

(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.

(aA) A major public entity, listed in Schedule 2 to the Public Finance Management Act, 1999 (Act 1 of 1999), must submit its disaster management plan prepared in terms of subsection (1) to the National Centre at the same time the major public entity submits its disaster management plan to the relevant national organ of state.

[Para. (aA) inserted by s. 11 (b) of Act 16 of 2015 (wef 1 May 2016).]

(b) If a national organ of state or major public entity fails to submit a copy of its disaster management plan or of any amendment to the plan in terms of paragraph (a) or (aA), as the case may be, the National Centre must report the failure to the Minister, who must take such steps as may be necessary to secure compliance with the relevant paragraph, including reporting the failure to Parliament.

[Para. (b) substituted by s. 11 (c) of Act 16 of 2015.]

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

[Para. (c) added by s. 11 (d) of Act 16 of 2015.]



3.11.2 Section 25: Implementation implications

| Outcome 1: National organs of state and major public entities prepared and submitted disaster management plans to the NDMC. | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|----------------------------------------|
| Output(s) | Responsibility | Time frame / due date |
| 1. Disaster management plan developed. | National organs of state. | Reviewed bi-annually by 31 March. |
| 2. A major public entity submitted its disaster management plan to the National Centre at the same time the major public entity submits its disaster management plan to the relevant national organ of state. | Major public entities. | Bi-annually by 31 March. |
| 3. The NDMC reported to the Minister the failure of (a) national organ(s) of state or (a) major public entity(ies) who fails to submit a copy of its disaster management plan or of any amendment to the plan. | NDMC | As needed. |
| 4. The National Centre must make available applicable disaster management plans of organs of state to relevant provincial and municipal disaster management centres. | NDMC | As needed and Bi-annually by 30 April. |



3.12 Insertion of Section 31A of Act 57 of 2002

3.12.1 Section 31A: Amended provision

31A. Staff of provincial disaster management centre

The staff of a provincial disaster management centre consists of-

- (a) the head of the provincial disaster management centre; and
- (b) suitably qualified persons, designated by the Head of the department within which the provincial disaster management centre is established.

[S. 31A inserted by s. 12 of Act 16 of 2015 (wef 1 May 2016).]

3.12.2 Section 31A: Implementation implications

| Outcome 1: The Provincial Disaster Management Centre is staffed with qualified persons. | | |
|------------------------------------------------------------------------------------------------|-----------------------|------------------------------|
| Output(s) | Responsibility | Time frame / due date |
| 1. Head of the PDMC appointed. | Head of Department | As needed. |
| 2. Suitably qualified persons are designated to staff the PDMC. | Head of Department | As needed. |

3.13 Amendment of Section 37 of Act 57 of 2002

3.13.1 Section 37: Amended provision

37. Provincial disaster management advisory forum

(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;



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- (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) a traditional leader recommended by the Provincial House of Traditional Leaders established by the Premier of a province in terms of section 212 of the Constitution of the Republic of South Africa, 1996;
- [Sub-para. (v) substituted by s. 13 (a) of Act 16 of 2015 (wef 1 May 2016).]
- (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;
 - (xi) institutions that can provide scientific and technological advice or support to disaster management; and
 - (xii) representatives of provincial umbrella organisations for women, children, the elderly and people with disabilities;
- [Sub-para. (xii) added by s. 13 (b) of Act 16 of 2015 (wef 1 May 2016).]
- (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.



3.13.2 Section 37: Implementation implications

| Outcome 1: Traditional leadership informs the provincial governance of Disaster Management. | | |
|----------------------------------------------------------------------------------------------------|--------------------------------|------------------------------|
| Output(s) | Responsibility | Time frame / due date |
| 1. A traditional leader of the PHTL participate in the PDMAF. | Designated traditional leader. | Ongoing process. |

| Outcome 2: Vulnerable groups including women, children, the elderly and people with disabilities informs provincial governance of Disaster Management. | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------|------------------------------|
| Output(s) | Responsibility | Time frame / due date |
| 1. Provincial representatives of umbrella organisations for women, children, the elderly and people with disabilities participate in the PDMAF. | Provincial representatives of umbrella organisations for women, children, the elderly and people with disabilities. | Ongoing process. |

3.14 Amendment of Section 38 of Act 57 of 2002

3.14.1 Section 38: Amended provision

38. Preparation of disaster management plans

(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;
 - (vi) contingency strategies and emergency procedures in the event of a disaster, including measures to finance these strategies; and
 - (vii) specific measures taken to address the needs of women, children, the elderly and persons with disabilities during the disaster management process;
- (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.

[Sub-s. (1) substituted by s. 14 of Act 16 of 2015 (wef 1 May 2016).]

(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.



3.14.2 Section 38: Implementation implications

| Outcome 1: Provincial organs of state prepared and submitted disaster management plans to the NDMC and PDMC. | | |
|---------------------------------------------------------------------------------------------------------------------|-----------------------------|-----------------------------------|
| Output(s) | Responsibility | Time frame / due date |
| 1. Disaster management plan developed. | Provincial organs of state. | Reviewed bi-annually by 31 March. |

3.15 Amendment of Section 39 of Act 57 of 2002

3.15.1 Section 39: Amended provision

39. Disaster management plans for provinces

(1) Each province must-

- (a) conduct a disaster risk assessment for its provincial 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 for the province as a whole, setting out-
 - (i) the way in which the concept and principles of disaster management are to be applied in its provincial area, including expected climate change impacts and risks for the province;
 - (ii) its role and responsibilities in terms of the national and 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;
 - (vi) contingency strategies and emergency procedures in the event of a disaster, including measures to finance these strategies; and



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- (vii) specific measures taken to address the needs of women, children, the elderly and persons with disabilities during the disaster management process;
- (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 provincial area; and
- (g) regularly review and update its plan.

[Sub-s. (1) substituted by s. 15 of Act 16 of 2015 (wef 1 May 2016).]

(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.

3.15.2 Section 39: Implementation implications

| Outcome 1: Provincial disaster management plans prepared and submitted to the NDMC and each MDMC. | | |
|----------------------------------------------------------------------------------------------------------|-----------------------------|-----------------------------------|
| Output(s) | Responsibility | Time frame / due date |
| 1. Disaster management plan developed. | Provincial organs of state. | Reviewed bi-annually by 31 March. |

3.16 Amendment of Section 43 of Act 57 of 2002

3.16.1 Section 43: Amended provision

43. Establishment

(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.

(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.



[Sub-s. (3) added by s. 16 of Act 16 of 2015 (wef 1 May 2016).]

(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.

[Sub-s. (4) added by s. 16 of Act 16 of 2015 (wef 1 May 2016).]

[Date of commencement of s. 43: 1 July 2004.]

3.16.2 Section 43: Implementation implications

| Outcome 1: Local municipalities has capacity to develop a disaster management plan and the implement the disaster management function | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------|-------------------------|
| Output(s) | Responsibility | Time frame / due date |
| 1. Local municipalities have capacity to develop a disaster management plan and the implement the disaster management function. | Municipal Manager | Bi-annually by 30 June. |
| 2. A local municipality which decided to establish a disaster management centre did so after consultation with the relevant district municipality in accordance with the terms set out in a service level agreement between the two parties and in alignment with national norms and standards. | Municipal Manager | As needed. |



3.17 Insertion of Section 45A of Act 57 of 2002

3.17.1 Section 45A: Amended provision

45A. Staff of municipal disaster management centre

The staff of a municipal disaster management centre consists of-

- (a) the head of the municipal disaster management centre; and
- (b) suitably qualified persons appointed in the administration of the municipality.

[S. 45A inserted by s. 17 of Act 16 of 2015 (wef 1 May 2016).]

3.17.2 Section 45A: Implementation implications

| Outcome 1: The Municipal Disaster Management Centre is staffed with qualified persons. | | |
|-----------------------------------------------------------------------------------------------|-----------------------|------------------------------|
| Output(s) | Responsibility | Time frame / due date |
| 1. Head of the MDMC appointed. | Municipal Manager | As needed. |
| 2. Suitably qualified persons are designated to staff the MDMC. | Municipal Manager | As needed. |

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

Part 3

Powers and duties of municipal organs of state

[Heading substituted by s. 18 of Act 16 of 2015 (wef 1 May 2016).]

3.19 Amendment of Section 51 of Act 57 of 2002

3.19.1 Section 51: Amended provision

51. Municipal disaster management advisory forum

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



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- (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) organised labour in the municipality;
 - (iii) relevant community-based organisations;
 - (iv) **one traditional leader elected from the traditional council or traditional councils in a municipality recognised by the Premier of a province in terms of section 212 of the Constitution of the Republic of South Africa, 1996;**
[Sub-para. (iv) substituted by s. 19 (a) of Act 16 of 2015 (wef 1 May 2016).]
 - (v) the insurance industry in the municipality;
 - (vi) representatives of the agricultural sector in the municipality;
 - (vii) religious and welfare organisations in the municipality;
 - (viii) medical, paramedical and hospital organisations in the municipality;
 - (ix) institutions of higher education;
 - (x) institutions that can provide scientific and technological advice or support to disaster management;
 - (xi) other relevant non-governmental organisations and relief agencies in the municipality;
 - (xii) **representatives of local umbrella organisations for women, children, the elderly and people with disabilities;**
[Sub-para. (xii) added by s. 19 (b) of Act 16 of 2015 (wef 1 May 2016).]
- (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.

[Date of commencement of s. 51: 1 July 2004.]



3.19.2 Section 51: Implementation implications

| Outcome 1: Traditional leadership informs the local governance of Disaster Management. | | |
|-----------------------------------------------------------------------------------------------|--------------------------------|------------------------------|
| Output(s) | Responsibility | Time frame / due date |
| 1. A Traditional Leader of the Traditional Council(s) participate in the MDMAF. | Designated traditional leader. | Ongoing process. |

| Outcome 2: Vulnerable groups including women, children, the elderly and people with disabilities informs local governance of Disaster Management. | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|------------------------------|
| Output(s) | Responsibility | Time frame / due date |
| 1. Local representatives of umbrella organisations for women, children, the elderly and people with disabilities participate in the MDMAF. | National representatives of umbrella organisations for women, children, the elderly and people with disabilities. | Ongoing process. |

3.20 Amendment of Section 52 of Act 57 of 2002

3.20.1 Section 52: Amended provision

52. Preparation of disaster management plans by municipal **organs of state other than municipalities**

[Heading substituted by s. 20 (a) of Act 16 of 2015 (wef 1 May 2016).]

- (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;
 - (vi) contingency strategies and emergency procedures in the event of a disaster, including measures to finance these strategies; and
 - (vii) specific measures taken to address the needs of women, children, the elderly and persons with disabilities during the disaster management process;
- (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.

[Sub-s. (1) substituted by s. 20 (b) of Act 16 of 2015 (wef 1 May 2016).]

(2) (a) A municipal **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 relevant municipal disaster management **centre**.

(b) If a municipal **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 relevant 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.

[Sub-s. (2) substituted by s. 20 (c) of Act 16 of 2015 (wef 1 May 2016).]

[Date of commencement of s. 52: 1 July 2004.]



3.20.2 Section 52: Implementation implications

| Outcome 1: Municipal organs of state other than municipalities prepared and submitted disaster management plans to the relevant MDMC. | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|----------------------------------|
| Output(s) | Responsibility | Time frame / due date |
| 1. Disaster management plan developed. | Municipal organ of state other than a municipality. | Reviewed bi-annually by 30 June. |
| 2. A Municipal organ of state other than a municipality submitted its disaster management plan to the relevant MDMC. | Municipal organ of state other than a municipality. | Reviewed bi-annually by 30 June. |
| 3. The relevant MDMC reported to the Mayor the failure of (a) municipal organ(s) of state other than a municipality who fails to submit a copy of its disaster management plan or of any amendment to the plan. | Relevant MDMC | As needed. |

3.21 Amendment of Section 53 of Act 57 of 2002

3.21.1 Section 53: Amended provision

53. Disaster management plans for municipal areas

(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-



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- (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;
 - (vi) contingency strategies and emergency procedures in the event of a disaster, including measures to finance these strategies; and
 - (vii) specific measures taken to address the needs of women, children, the elderly and persons with disabilities during the disaster management process;
- (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;
- (g) regularly review and update its plan; and
- (h) through appropriate mechanisms, processes and procedures established in terms of Chapter 4 of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000), consult the local community on the preparation or amendment of its plan.

[Sub-s. (1) substituted by s. 21 of Act 16 of 2015 (wef 1 May 2016).]

(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.

[Date of commencement of s. 53: 1 July 2004.]

3.21.2 Section 53: Implementation implications

| Outcome 1: A Municipality prepared and submitted its disaster management plans to the NDMC, the relevant PDMC and each municipality. | | |
|---------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|----------------------------------|
| Output(s) | Responsibility | Time frame / due date |
| 1. Disaster management plan developed. | Municipal organ of state other than a municipality. | Reviewed bi-annually by 30 June. |



3.22 Amendment of Section 59 of Act 57 of 2002

3.22.1 Section 59: Amended provision

59. Regulations

(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;
- (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.

[Sub-s. (1) substituted by s. 22 of Act 16 of 2015 (wef 1 May 2016).]

(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 of imprisonment for a period not exceeding 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.

[Date of commencement of s. 59 in so far as it does not relate to Chapters 2, 3 and 4: 1 July 2004.]

3.22.2 Section 59: Implementation implications

| Outcome 1: Disaster Management is regulated | | |
|---------------------------------------------------------------------------------------------------------------------------|----------------|------------------------|
| Output(s) | Responsibility | Time frame / due date |
| 1. Regulations issued on the focus areas of the national disaster management education, training and research frameworks. | NDMC | Ministers' discretion. |
| 2. Regulations issued concerning the declaration and classification of disasters. | NDMC | Ministers' discretion. |

3.23 Substitution of long title of Act 57 of 2002

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.



3.24 Short title and commencement

Short title

The Act is called the Disaster Management Amendment Act, 2015

Commencement

The Act came into operation on 1 May 2016 by Presidential Proclamation 24 of 2016 in published in Gazette No. 39943 on 22 April 2016.

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