

PLACE IN
DISASTER FILE

SUPPLEMENT TO
THE
SWAZILAND GOVERNMENT
GAZETTE

VOL. XLIV]

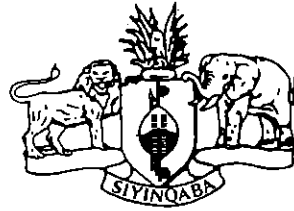
MBABANE, Friday, MARCH 31st, 2006

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DISASTER MANAGEMENT ACT, 2006
(Act No. 1 of 2006)



I ASSENT

MSWATI III
King of Swaziland

8th March, 2006

AN ACT
Entitled

AN ACT to provide for the integration and co-ordination of disaster management; the establishment of a Disaster Management Fund and other matters incidental thereto.

ENACTED by the King and Parliament of Swaziland.

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**PART I
PRELIMINARY**

Short Title and Commencement

1. This Act may be cited as the Disaster Management Act, 2006 and shall come into force

on publication in the Gazette.

Interpretation

2. (1) In this Act, unless the context otherwise requires -

“Agency” means the National Disaster Management Agency established in terms of section 13;

“Centre” means the National Emergency Operations Centre established within the National Disaster Management Agency in terms of section 4;

“Council” means the National Disaster Management Council established in terms of section 8;

“Committee” means the Regional Disaster Management Committee established in terms of section 17;

“early warning” means the identification, interpretation and recognition of events that indicate potential emergency;

“emergency” means a state in which normal procedures are suspended and extra-ordinary measures are taken in order to avert a disaster;

“Director” means the person appointed in terms of section 15;

“disaster” means a serious disruption of the functioning of society, causing widespread human material or environmental losses, which exceed ability of the affected society to cope, using its own resources;

“disaster management” is a collective term encompassing all aspects of planning for and responding to disasters, including both pre-disaster and post disaster activities and it may refer to the management of both the risks and the consequences of disasters.

“environment” means without being limited to, the atmosphere water in all its forms, soil and subsoil flora, fauna energy sources, minerals, topographical formations with energy potential, geothermal resources, living resources, landscape resources and other elements and factors such as residues, garbage, waste and refuse, noise, living conditions in human settlements and man-made projects;

“Fund” means the Disaster Management Fund established in terms of section 35;

“hazard” means an event in the natural or human made environment that adversely affects human life, property, activity, or the environment to the extent of causing a disaster;

“Minister” means the Minister responsible for disaster management;

“mitigation” refers to all activities aimed at reducing the threat from and impact of future disasters and the ultimate goal of mitigation is prevention, which implies elimination of the threat entirely;

“Plan” means the National Disaster Management Plan;

“preparedness” means pre-positioned plans, regulations and resources aimed at minimising losses from disasters once they have struck, through effective disaster responses;

“prevention” means measures aimed at impeding the occurrence of a disaster or prevention the occurrence from having harmful effects on a community or population;

“relief” means the aid that is provided to the affected community or population to meet immediate needs and to alleviate life-threatening situations;

“resources” means any plant or part of a plant, tools, farming or other implement, vehicle animal, boat, agricultural inputs, airplane, apparatus, earthmoving equipment, Construction equipment, or other equipment of any kind, manpower or other requirement deemed necessary to counter the effects of a disaster.

“response” means a set of activities implemented once a disaster has struck, aimed firstly at satisfying the immediate needs of the affected population, and subsequently at the rehabilitation and reconstruction of affected infrastructure, facilities and economic activity;

“risk” means the expected damage or loss by any hazard;

“reconstruction” means the actions taken to re-establish a community or population after rehabilitation, following a disaster;

“rehabilitation” means the operation and decisions taken after a disaster with a view to re-establishing an affected community to sustainable living conditions, while encouraging and facilitating the necessary adjustments to changes caused by the disaster;

“sustainable development” means the integration of social, economic and environmental factors into planning implementation and decision-making so as to ensure that development serves present and future generations;

“Team” means the Ministerial Disaster Management Team established in terms of section 5;

“this Act” includes the regulations and any notice issued under Act;

“vulnerability” means the extent to which an individual, community, structure, service or geographical area is likely to be damaged, destroyed or disrupted by the impact of a particular hazard.

(2) Words derived from the word or terms defined, have corresponding meanings, unless the context indicates otherwise.

(3) A reasonable interpretation of a provision, which is consistent with the purpose of this Act, shall be preferred over an alternative interpretation, which is not consistent with the purpose of this Act.

Application

3. (1) This Act shall apply throughout the country.

(2) This Act does not apply to an occurrence falling within the definition of “disaster” in terms of section 2 -

(a) where that occurrence is an accident of a kind for which specific legislation has been enacted and that legislation is aimed at reducing the risk of such accident and addressing the consequence of an accident which it occurs; or

(b) if that occurrence is a civil disorder or industrial dispute.

PART II
POLICY, PLANS AND STRUCTURES FOR DISASTER MANAGEMENT

PART II (a)
POLICY AND PLANS FOR NATIONAL DISASTER MANAGEMENT

Requirements for national disaster management policy and plans

4. (1) The Minister, in consultation with key role players in disaster management, shall establish a national policy, a plan to operationalize the policy, and a national emergency contingency plan for disaster management.

(2) The objectives of national disaster management shall be to -

- (a) avoid or minimize potential losses from hazards;
- (b) provide timely and appropriate assistance to victims and their dependants as necessary; and
- (c) achieve rapid and sustainable recovery.

(3) The Minister shall submit to the Cabinet for approval and publication in the Gazette, the National Disaster Management Policy, National Disaster Management Plan, and, the National Contingency Plan within one year of the enactment of this Act.

(4) The Minister shall ensure that the national policy -

- (a) is consistent and integrated with national development policies;
- (b) promotes and supports development of a integrated, coordinated and adequately financed national disaster management system aimed at decreasing vulnerability and increasing mitigation and response capacity by -
 - (i) focusing on strengthening of national and local capacities for disaster management, emphasizing development of institutional structures, voluntarism, education, training, research and innovation, information and communication;
 - (ii) integrating systems and structures for drought/food security and HIV/AIDS management;
 - (iii) adopting a multi-hazard approach by addressing small, recurrent and localized disasters as well as large infrequent disasters;
 - (iv) playing a catalytic role in enhancing self-protection from effective coping mechanisms at the inkhundla and community level; and
 - (v) providing a framework for the financing of disaster management by various entities, including conditions and provisions for managing and accessing such financing;
- (c) improves use of risk information in disaster management, with emphasis on -
 - (i) institutionalizing vulnerability assessment;
 - (ii) strengthening early warning processes; and

- (iii) improving risk communication and awareness;
 - (d) strengthens partnerships and coordination among various role players (government, private sector, organized labour, civil society, traditional authorities, communities, technical experts) and levels (local, regional, national, sub-regional and international) in disaster management;
 - (e) utilizes inter- sectoral, multi-disciplinary, cross-functional and multi-level mechanisms for disaster management;
 - (f) integrating disaster risk management in national planning to close the development-disaster gap, by -
 - (i) ensuring that the national disaster management policy is linked to complementary sectoral policies and to regional planning.
 - (ii) developing and seeking compliance with standards for disaster management practice by all role players.
 - (iii) promoting risk management applications
 - (iv) integrating emergency management in development frameworks.
- (5) The Minister shall ensure that National Disaster Management Plan -
- (a) addresses the requirements for disaster management including mitigation, preparedness, response and recovery measures;
 - (b) is integrated with national and regional disaster management plans, programmes, and procedures and shall be supported by a Disaster Management Manual containing detailed responsibilities and procedures for disaster management and capacity building programmes aimed at decreasing vulnerability and increasing preparedness and mitigation capacity.
- (6) The Minister shall ensure that the National Contingency Plan -
- (a) is consistent with both the national policy and operational plan for disaster management required under subsections (1) and (2);
 - (b) is consistent with contingency strategies and emergency procedures in the disaster management and emergency management plans of ministries and regional administrations envisaged in subsection 33 (1) (a) and subsection 34 (1) (a) of this Act;
 - (c) provides for establishment of a National Emergency Operations Centres within the National Disaster Management Agency to function as a mission control centre to be managed together with the Fire Emergency Department during emergencies;
 - (d) provides for preparedness measures that ensure organized mobilization of human, material, financial and other resources within a safe environment for effective relief; and
 - (e) establishes the set of response activities to be implemented in the aftermath of a disaster in order to -

- (i) assess the losses and needs;
- (ii) reduce the suffering of those affected and their dependents;
- (iii) limit the extent and consequences of the disaster; and
- (iv) open the way to rehabilitation and reconstruction, including disaster risk reducing measures.

PART II (b)
MINISTERIAL DISASTER MANAGEMENT TEAM

Establishment and objective

5. (1) The Prime Minister shall establish the Ministerial Disaster Management Team within the Cabinet;

(2) The objective of the Team is to ensure a sound policy and institutional framework for sustainable disaster management that shall assist the country to reduce disaster risk through creation of a resilient society.

Functions

6. (1) The functions of the Team shall include the following -

- (a) advising and making recommendations to the Cabinet on policy and coordination issues relating to disaster management;
- (b) advising Cabinet on oversight of disaster management at all levels;
- (c) advising the Prime Minister on emergency declaration and emergency assistance management;
- (d) making recommendations to the Prime Minister regarding compliance with international obligations and regional co-operation in disaster management with other Southern African states;
- (e) dealing with any other matter that may be prescribed by the Prime Minister.

(2) The Prime Minister may prescribe rules for the functioning of the Team.

Composition

7. The Team shall comprise -

- (a) the Deputy Prime Minister who shall act as chairperson of the Team;
- (b) the Ministers responsible for the following portfolios -
 - (i) Foreign Affairs;
 - (ii) Local Government;
 - (iii) Natural Resources and Energy;

- (iv) Tourism, Environment and Communication;
- (v) Economic Planning and Development;
- (vi) Health and Social Welfare;
- (vii) Public Works and Transport;
- (viii) Agriculture and Cooperatives;
- (ix) Finance; and
- (x) Disaster Management.

PART II (c)
NATIONAL DISASTER MANAGEMENT COUNCIL

Establishment and objective

8. (1) The National Disaster Management Council is hereby established.

(2) The objective of the Council is to support the development of a sustainable, integrated and coordinated system of disaster management in the country based on the consultative approach and partnerships between role players.

Functions

9. (1) The functions of the Council shall include the following -

- (a) reviewing the National Disaster Management Policy and Plan for the country that the Minister shall submit to the Cabinet for approval and ensuring that the Policy and Plan -
 - (i) address the requirements for disaster management, including risk assessment, prevention, preparedness, rescue, evacuation, relief, recovery, rehabilitation and reconstruction measures; and
 - (ii) meet requirements under section 4 of this Act;
- (b) making recommendations to the Minister and the national disaster management agency on the establishment and implementation of programmes, procedures and legislation for disaster management, including inter-sectoral interventions;
- (c) providing a platform for role players in disaster management to consult among themselves and to link to policy processes;
- (d) making recommendations to Minister and the disaster management agency regarding the co-ordination of national disaster management and cross-sectoral disaster management plans, programmes and procedures;
- (e) monitoring the implementation of the Plan and Manual envisaged under section 4 and regularly reviewing such Plan and Manual and where necessary, making recommendations for the amendment of the Plan and Manual to the Minister and the national disaster management institution;
- (f) participating in needs and impact assessments in the event of a disaster occurrence;

- (g) recommending to the Minister a framework for the financial contributions by role players at all levels to the Disaster Management Fund for the funding of disaster management and the payment of compensation to those affected by a disaster and their dependants.
 - (h) dealing with any other matters the Council may deem necessary to perform its functions or as may be prescribed by the Minister.
- (2) The Minister may recommend modalities and rules for the operation of the Council.
- (3) The Minister shall, with the concurrence of the Cabinet, make funds available for the functioning of the Council from -
- (b) money appropriated by Parliament for the purpose, and
 - (c) funds obtained from donations or grants.

Composition

10. (1) The Council shall comprise -
- (a) a person appointed by the Minister, who shall act as chairperson of the Council
 - (b) the Principal Secretary or a person representing the Principal Secretary from the following Ministries -
 - (i) Natural Resources and Energy;
 - (ii) Tourism, Environment and Communication;
 - (iii) Economic Planning and Development;
 - (iv) Health and Social Welfare;
 - (v) Public Works and Transport;
 - (vi) Agriculture and Co-operatives;
 - (vii) Ministry responsible for Disaster Management;
 - (viii) Local Government; and
 - (ix) Foreign Affairs
 - (c) the Army Commander or a person appointed by the Commander;
 - (d) the Commissioner of Police or a person appointed by the Commissioner;
 - (e) the Director of the Fire and Emergency Department,
 - (f) every Regional Secretary;
 - (g) a representative from the following disaster management role players -
 - (i) organised labour;

- (ii) organised business;
- (iii) the Baphalali Swaziland Red Cross Society as established in terms of the Baphalali Swaziland Red Cross Society Act, 1970;
- (iv) traditional Chiefs;
- (v) religious and welfare groups;
- (vi) medical and para-medical organizations;
- (vii) scientific and technological institutions;
- (viii) Coordinating Assembly of NGOs; and
- (ix) community based organisations.

(2) The Minister shall appoint the persons contemplated in subsection (1)(g) upon nomination by the organization or institution they represent.

(3) The Director of the National Disaster Management Agency shall be a member of the Council in a ex-officio capacity.

(4) The Minister may invite such further representatives from appropriate United Nations Agencies, donor agencies, professionals and agricultural organisations as the Minister may deem appropriate, to serve on the Council in a ex-officio capacity.

(5) Each member of the Council shall, with the necessary authority from the government or the member's organisation or institution as the case may be, appoint an alternate member.

(6) The alternate member shall act in such member's absence inability to act as member of the Council.

(7) The Council shall, with the concurrence of the Minister, establish a Secretariat with such employees, appointed in the Public Service, as may be necessary for the efficient discharge of the functions of the Council.

(8) The Council may co-opt persons to assist it in carrying out the functions.

(9) The Council shall hold regular meetings twice annually, except in the case of special meetings;

(10) The chairperson may call a special meeting of the Council whenever found necessary;

(11) The Council may invite persons to attend its meetings and to assist it in carrying out the functions.

(12) A member who vacates his or her office in terms of section 11 (3), shall be substituted by a replacement nominated by the government or by the organisation or institution represented by such member.

(13) The replacement shall serve for the balance of the term of the person he or she replaces.

Conditions of appointment to Council

11. (1) A member of the Council shall hold office for a period not exceeding three years.
- (2) At the expiry of the member's term of office a member may be appointed for one further term.
- (3) A member of the Council shall vacate the member's office where the -
- (a) Minister, at anytime, terminates such terms of office for good reason in the case of a government appointee;
 - (b) organization or institution the member represents withdraws its nomination of the member as its representative;
 - (c) member can no longer perform his or her duties on the Council;
 - (d) member is convicted of a criminal offence involving dishonesty, and is sentenced to imprisonment without the option of a fine;
 - (e) member is absent for three consecutive meetings of the Council without the leave of the chairperson; or
 - (f) member resigns by way of written notice to the chairperson or the Minister.
- (4) Where any member of the Council or the Member's spouse has a direct or indirect financial interest in any matter before the Council, he or she shall disclose such interest and may not take part in any discussion regarding such matter.
- (5) A member of the Council shall be paid allowances as shall be determined by the Minister in consultation with the Minister responsible for finance.

Report to Cabinet

12. The Minister shall present an annual report to the Cabinet on the work of the Council, and related issues, including -
- (a) its programme activities for the current year;
 - (b) the work plan for the next year;
 - (c) financial report and budget;
 - (d) any matter relating to its functions; and
 - (e) contribution to progress towards reducing disaster risks in the country.

PART II (d)
NATIONAL DISASTER MANAGEMENT AGENCY

Establishment

13. (1) The National Disaster Management Agency is hereby established as an institution within the public service.
- (2) The Agency forms a part of and functions within the office of the Minister

Objective

14. (1) The Agency shall be the principal institution for disaster management at the national level of government.

(2) The Objective of the Agency is to promote an integrated and coordinated system of disaster management focused on decreasing vulnerability and increasing preparedness and mitigation capacity.

Director and Functions of the Agency

15. (1) The Civil Service Board, established in terms of the Civil Service Order, 1973, shall appoint a person to serve as the Director of the Agency who shall have the necessary experience, expertise and skills to enable the Agency to carry out its functions.

(2) The Director shall be the Chief Executive Officer of the Agency and shall be responsible for the exercise of the powers of and performance of its duties by the Agency.

(3) There shall be appointed, in the Public Service, such employees of the Agency as may be necessary for the efficient discharge of the functions of the Agency.

(4) The function of the Agency shall include the following -

- (a) establishing a National Disaster Management Plan for the country which the Minister shall submit to the Cabinet for approval and ensuring that the Plan -
 - (i) addresses the requirements for disaster management including mitigation, preparedness, response and recovery measures; and
 - (ii) is integrated with national and regional disaster management plans, programmes, and procedures and shall be supported by a Disaster Management Manual containing detailed responsibilities and procedures for disaster management and capacity building programmes aimed at decreasing vulnerability and increasing preparedness and mitigation capacity;
- (b) supervising and monitoring disaster response, preparedness, mitigation and prevention programmes for the country;
- (c) managing the national emergency operations system;
- (d) co-ordinating, facilitating and monitoring the implementation of disaster management policies, plans programmes, and procedures;
- (e) developing effective performance standards for disaster management;
- (f) developing budgets for disaster management and supporting the Council in developing a framework for the financial contributions by government at all levels to the Disaster Management Fund for the funding of disaster management and the payment of compensation to those affected by a disaster and their dependants;
- (g) administering the National Disaster Management Fund, as established under section 35 and managing national emergency assistance commodities;

- (h) analysing data and dissemination information in order to support and facilitate the implementation of disaster management policy, programmes and procedures;
 - (i) acting as the focal point for the dissemination of information concerning disaster threats and hazards, including warning the public of approaching disasters;
 - (j) promoting and implementing public awareness programmes especially in respect of known hazards;
 - (k) co-ordinating needs and impact assessments in the event of a disaster occurrence;
 - (l) evaluating the effectiveness of disaster management planning and co-ordination in any post disaster situation;
 - (m) supporting the development of disaster management volunteers, in consultation with the National Disaster Management Council;
 - (n) developing guidelines for the integration of relevant aspects of disaster management into existing basis and continuing education programme;
 - (o) developing guidelines for capacity building programmes aimed at decreasing vulnerability and increasing preparedness and mitigation capacity;
 - (p) fostering disaster management research; and
 - (q) dealing with any other matter that may be prescribed by the Minister.
- (5) The Director, with the concurrence of the Minister and in consultation with the Council, shall establish ad hoc or permanent Technical Working Groups to assist the Agency in the performance of its functions, and ensure that -
- (a) working groups are established to focus at least on the following -
 - (i) risk and vulnerability assessment;
 - (ii) early warning;
 - (iii) water and sanitation;
 - (iv) health and nutrition;
 - (v) emergency relief and logistic;
 - (vi) education and public awareness;
 - (vii) training and capacity building;
 - (viii) civil emergencies; and
 - (ix) inter-country co-ordination,
 - (b) the Technical Working Groups shall consist of persons who have experience, expertise and skills to enable the Agency carry out its functions;

(c) Technical Working Groups are also to promote and carry out or cause to be carried out research and investigation into matters relating to disaster management, particularly, disaster prevention and mitigation and promote and carry, out or cause to be carried out, the dissemination of information forthcoming from such research and investigation.

(6) The Minister may make regulations regarding the terms of reference, composition and functioning of the Technical Working Groups.

(7) The Agency shall commence the operation of regional offices according to a schedule to be determined by the Minister.

(8) Pending the commencement of a regional office in any region, the Agency shall make interim and alternative arrangements to administer its plans, programmes and procedures in that region.

(9) The Minister, with the concurrence of the Cabinet, shall make funds available for the functioning of the Agency from -

- (a) moneys appropriated by Parliament for this purpose, and
- (b) funds obtained from donations or grants.

Reporting

16. (1) The Agency shall present an annual report to the Minister on -

- (a) disasters that occurred, their magnitude, severity and effects;
- (b) its work programme, outputs and impacts of those activities for the year under consideration;
- (c) its work plan for the next year;
- (d) any other matter relevant to the implementation and co-ordination of disaster management; and
- (e) any matter as may be prescribed by the Minister.

(2) The Minister shall present an annual report to the Cabinet on the work of the Agency, and related issues, including -

- (a) its programme activities, outputs and impacts for the current year;
- (b) the work plan for the next year;
- (c) financial report and budget;
- (d) progress towards reducing disaster risks in the country;
- (e) any matter requested by the Cabinet concerning disaster management; and
- (f) any matter the Minister considers appropriate concerning disaster management in the country.

PART III
REGIONAL DISASTER MANAGEMENT COMMITTEE

Establishment and objective

17. (1) Each Regional Administrator shall establish a Regional Management Committee for the respective region and each shall be chaired by the respective Regional Secretary or a person appointed by that Regional Secretary.

(2) The Committee shall be the principal interface for disaster management at regional, inkhundla and community level.

Functions

18. (1) The functions of the Committee shall include -

- (a) reviewing regional disaster management policies and plans and ensuring that they address the requirements for disaster management, including risk assessment, prevention, preparedness, rescue, evacuation, relief, recovery, rehabilitation and reconstruction measures at the regional level;
- (b) making recommendations to the Minister, the Regional Administrator and the national disaster management agency on the establishment, implementation and coordination of programmes, procedures and legislation for disaster management, including inter-sectoral interventions, at the regional and inkhundla and community levels by the Agency and role players;
- (c) monitoring the implementation of national policy, programme and procedures at regional and inkhundla and community levels by the Agency and role players;
- (d) facilitating the implementation of disaster management programmes and procedures at regional, inkhundla and community level by the Agency and role players;
- (e) acting as a conduit of information to and from the Agency in order to support and facilitate the implementation of disaster management policies programmes and procedures;
- (f) providing a platform for role players in disaster management to consult among themselves at the regional level;
- (g) immediately when a disaster event is threatening -
 - (i) imitating efforts to assess the magnitude and severity or potential magnitude and severity of the threatening disaster;
 - (ii) informing the Agency of the threatening disaster and its initial assessment of the potential magnitude and severity of the threatening disaster;
 - (iii) issuing early warning of impending hazards and threats on the instruction of, and as directed by, the Agency;
 - (iv) stepping up the provision of other information required for preparing for or dealing with a disaster;

(v) through the Agency, making recommendation to the Minister to direct and compel the evacuation of all or part of the population from any disaster threatened area if it is deemed that such action is necessary for the preservation of life and move them to temporary shelter elsewhere where adequate facilities exist;

(vi) alerting disaster management role players that may be of assistance in the circumstances;

(vii) activating the operations of disaster management volunteers;

(viii) initiating the implementation of any disaster management, contingency plans and emergency procedures that may be applicable in the circumstance consistent with Part II and Part IV of this Act; and

(ix) taking necessary and reasonable measures in order to prevent, alleviate, contain and minimize the effects of the threatened disaster, and

(h) performing any function or duty as the Minister or the Regional Administrator may prescribe.

(2) The Regional Administrator may -

(a) engage a small number of officers to assist the Committee in the performance of its work;

(b) establish ad hoc or permanent working groups to deal with specific hazards or geographical areas and to assist the Committee in the performance of its functions.

(3) The Minister may make regulations concerning the terms of reference, compositions and functioning of the working groups.

(4) The Minister, with the concurrence of the Cabinet, shall make funds available for the functioning of the Committee, as part of the budget of the Council, from -

(a) moneys appropriated from Parliament for this purpose, and

(b) funds obtained from donations and grants

Composition

19. (1) The Committee shall comprise -

(a) the head of each of the sectoral departments at regional level;

(b) the Commanding Officer of the Umbutfo Defence Force in the respective region or a person appointed by him or her;

(c) the Regional Commander of the Royal Swaziland Police;

(d) a representative from each inkhundla in the region nominated by the Regional Administrator;

(e) a representative from some of the following disaster management role players -

(i) organised labour;

- (ii) organised business;
- (iii) religious and welfare organisations;
- (iv) medical and para-medical organisations;
- (v) traditional chiefs
- (vi) Coordinating Assembly of NGOs;
- (vii) community based organisations;
- (viii) the Baphalali Swaziland Red Cross Society as established in terms of Baphalali Swaziland Red Cross Society Act, 1970 Act; and
- (ix) relevant professional and scientific organisations and institutions;

(2) The Minister shall appoint the persons contemplated in subsection (1) (h) upon nomination by the organization or institution they represent.

(3) Each member of the Committee shall, with the necessary authority from the government or the member's organisation or institution as the case may be, appoint an alternate member.

(4) The alternate member shall act to such member's absence or inability in act as member of the Committee.

(5) The office of the Regional Administrator shall function as the secretariat of the Committee.

(6) The Committee may co-opt persons to assist it in carrying out its functions.

(7) The Committee shall hold regular meetings thrice annually, except in the case of special meetings.

(8) The chairperson may call a special meeting of the Committee whenever found necessary.

(9) The Committee may invite persons to attend its meetings and to assist it in carry out its functions.

(10) A member of the Committee who vacates his or her office in terms of section 20 (3), shall be substituted by a replacement nominated by the government or by the organisation or institution represented by such member.

(11) The replacement shall serve for the balance of the term of the person he or she replaces.

Conditions of appointment of Committee

20. (1) A member of the Committee shall hold office for a period not exceeding three years.

(2) At the expiry of the member's term of office, a member may be appointed for one further term.

(3) A member of the Committee shall vacate office where -

(a) the Regional Administrator at any time terminates such term of office for good reason in the case of a government appointee;

(b) the member can no longer perform his or her duties on the Committee;

- (c) the member is convicted of a criminal offence involving dishonesty, and is sentenced to imprisonment without the option of a fine;
 - (d) the member is absent for three consecutive meetings of the Committee without the leave of the chairperson;
 - (e) the member resigns by way of written notice to the Regional Administrator; or
 - (f) the member whose appointment was by virtue of the office the member held or the organization the member represented ceases to hold the office or ceases to be a member of the organization.
- (4) where any member of the Committee or his or her spouse has a direct or indirect financial interest in any matter before the Committee, the member shall disclose such interest and may not take part in any discussion regarding such matter.
- (5) A member of the Committee shall be paid such allowances as shall be determined by the Minister in consultation with the Minister responsible for finance.

Reporting

21. (1) The Committee shall present an annual report on its activities to the Minister and Regional Administrator, including all the following -

- (a) its work activities during the year;
- (b) its work plan for the next year;
- (c) emergencies and disasters that occurred during the year in its region and their impacts and effects.
- (d) Particular problems experienced;
- (e) any matter relevant to the implementation of disaster management policies, plans, programmes and plans; and
- (f) any matter that the Minister may require.

(2) The Regional Administrator shall present an annual report to the Minister for presentation to Cabinet on the work of the Committee, including -

- (a) its programme activities, outputs and impacts for the current year;
- (b) the work plan for the next year;
- (c) financial report and budget;
- (d) progress towards reducing disaster risks in the region; and
- (f) any matter the Minister considers appropriate concerning disaster management in the region.

PART IV
EMERGENCY MANAGEMENT STRUCTURES

Establishment of national Emergency Committee

22. (1) When a national emergency is declared in terms of this Act, the Prime Minister shall constitute the Ministerial Disaster Management Team as the National Emergency Committee.

(2) The Deputy Prime Minister shall chair the National Emergency Committee.

Establishment of National Emergency Management Task Force

23. (1) When a national emergency is declared in terms of this Act, the Minister may, under the authority of Cabinet and in consultation with the National Emergency Committee, establish the National Emergency Management Task Force.

(2) A sub-committee of the National Disaster Management Council shall constitute the National Emergency Task Force.

(3) The Minister shall chair the National Emergency Task Force.

(4) The Minister shall designate the National Disaster Management Agency as the National Emergency Management Secretariat of the Task Force.

(5) The Minister shall designate the Director of the National Disaster Management Agency as the National Emergency Coordinator.

Establishment of Regional Emergency Management Task Force

24. (1) When a national disaster is declared or when a regional disaster is declared in terms of this Act, the relevant Regional Administrator shall establish a Regional Emergency Management Task Force.

(2) A sub-committee of the Regional Disaster Management Committee shall constitute the Regional Emergency Management Task Force.

(3) The Regional Administrator shall be the head of the Regional Emergency Management Task Force.

Composition of sub-committee

25. The Minister or Regional Administrator shall determine the composition of the sub-committee of the National Disaster Management Council or the Regional Disaster Management Committee that constitutes the National or Regional Emergency Management Task Force.

Functions of National Emergency Committee

26. The functions and duties of the National Emergency Committee shall include -

- (a) facilitating the exercise of the emergency powers of the Prime Minister under this Act;
- (b) coordinating national and regional emergency management measures at the Cabinet level;
- (c) providing Cabinet oversight of the National Emergency Management Task Force;

- (d) acting as the interface between the government and the international community regarding emergency management and assistance matters; and
- (e) undertaking any function directed by the Prime Minister.

Functions of National Emergency Management Task Force and Regional Emergency Management Task Force

27. The functions and duties of the National Emergency Management Task Force and Regional Emergency Management Task Force shall include -

- (a) implementing national and regional emergency plans and procedures;
- (b) co-ordinating disaster and relief activity;
- (c) establishing and directing the policy of the National Emergency Management Secretariat and Regional Emergency Management Committee with respect to planning, organisation, equipment, training, administration and operations;
- (d) enlisting suitable persons to be volunteers, prior to, during or subsequent to, the occurrence of a disaster, ensuring that such emergency management volunteers;
 - (i) comply with regulations on the registration, identification, conduct and duties of volunteers to be established by the National Disaster Management Agency, in consultation with the National Disaster Management Council;
 - (ii) shall provide or assist in providing emergency management services and undertake to comply with every reasonable order or instruction given by the National Emergency Management Task Force and Regional Emergency Management Task Force; and
 - (iii) benefit from provisions for indemnity and reimbursement of expenses in Part VIII of this Act;
- (e) inspecting, at regular intervals, resources for disaster preparedness, response and relief activity; and
- (f) mounting such multi-organisational exercises as may be necessary to test emergency plans and procedures.

Functions of National Emergency Management Secretariat and National Emergency Coordinator

28. The functions and duties of the National Emergency Management Secretariat and National Emergency Coordinator shall include -

- (a) serving as the operational unit of the National Emergency Task Force and Regional Emergency Task Force;
- (b) serving as the coordinating centre for emergency response management;
- (c) coordinating all operational procedures for emergency management according to procedures prescribed in the national contingency plan and as may be directed by the National Emergency Task Force and Regional Emergency Task Force;

- (d) activating and administering the activities of the National Emergency Operations Centre, in cooperation with the Fire and Emergency Department;
- (e) the National Emergency Coordinator reporting directly to the Minister or the Regional Administrator on all tasks and assignments performed during emergencies; and
- (f) undertaking any tasks as may be directed by the Minister or the Regional Administrator.

PART V
DECLARATION OF EMERGENCIES

Classification of disaster and declaration of emergencies

29. (1) When a disaster event is threatening, the Prime Minister may, on the advice of the Minister in consultation with the Council, determine whether the event qualifies as a disaster in terms of this Act, and if it does so qualify, the Prime Minister in consultation with the Minister shall -
- (a) assess the magnitude and severity or potential magnitude and severity of the disaster; and
 - (b) classify the disaster as a national or regional disaster and declare a national or regional emergency in accordance with subsections (4) and (5);
- (2) When assessing the magnitude and severity or potential magnitude and severity of a disaster, the Prime Minister may enlist the assistance of an independent assessor to evaluate the disaster on site.
- (3) A disaster classified in terms of subsection (1) (b) as a National or regional disaster may at any time be reclassified by the Prime Minister 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 regional disaster if it affects any region and the region concerned is able to deal with it effectively.
- (5) A disaster is a national disaster where -
- (a) it affects any region; and
 - (b) the region concerned is unable to deal with it effectively; or
 - (c) it affects more than one region; and
 - (d) the regions concerned are unable to deal with it effectively.
- (6) A declaration of a national emergency shall come into force immediately the declaration is made and, unless earlier revoked, shall continue in force for a period specified in the declaration, not exceeding two months.
- (7) The duration of a national emergency may be extended by declaration under subsection (1) for further period not exceeding one month in each case.

(8) A declaration of a regional emergency shall come into force immediately the declaration is made unless earlier revoked, shall continue in force for a period specified in the declaration not exceeding one month.

(9) The duration of a regional emergency may be extended by declaration under subsection (8) for further period not exceeding one month each.

Duties upon declaration of an emergency

30. Upon the declaration of a national emergency, the Minister, and upon the declaration of a regional emergency, the Regional Administrator, in consultation with the Minister, shall institute whatever measures he or she considers appropriate to deal with the disaster including -

- (a) taking such action as required by the relevant emergency management plans and procedures;
- (b) step up the provision of early warning and other information required for preparing for or dealing with a disaster;
- (c) taking immediate action to use, direct and co-ordinate all available resources so as to counter the effects or the likely effects of the disaster occurrence or impending occurrence that led to the declaration;
- (d) immediately they become available, use direct and co-ordinate all additional resources;
- (e) alerting disaster management role players that may be of assistance in the circumstances

Powers upon declaration of emergency

31. Upon the declaration of an emergency, the Prime Minister may -

- (a) direct that the resources of the country and other resources that the Prime Minister considers necessary, be made available to relieve the effect of the disaster;
- (b) utilise all available resources of the government as may be reasonably necessary;
- (c) take such other action as the Prime Minister considers necessary and appropriate to counter the effects of the disaster;
- (d) authorise the expenditure of such sums to relieve personal distress and implementation of measures to prevent, mitigate or overcome the effect of the disaster;
- (e) transfer personnel or functions of government departments for the purpose of performing or facilitate emergency response and relief efforts; and
- (f) have access to and utilise the Umbutfo Swaziland Defence Force and Royal Swaziland Police personnel, resources, radio communication and other necessary equipment.

Special powers with respect to the public

32. (1) Upon the declaration of an emergency, the Minister may, if the Minister is of the opinion that such action is necessary for the preservation of human life and without authority other than the provision -

- (a) direct and compel the evacuation of all or part of the population from any disaster-stricken area if the Minister deems that such action is necessary for the preservation of life and move them to temporary shelter elsewhere where adequate facilities exist;
 - (b) direct or prohibit the movement of people and resources in disaster area;
 - (c) direct the termination of supply of fuel, gas, electricity, water or drainage facility in the disaster area;
 - (d) impose and enforce restrictions on the supply and usage of water in circumstances of severe or prolonged draughts;
 - (e) direct the takings of any other reasonable measures as the Minister may deem fit in order to prevent, alleviate, contain and minimise the effects of a disaster.
- (2) Upon the declaration of an emergency, a police officer, a member of the army or a member of the Fire and Emergency Service and any other authorised person may, without any authority other than this provision -
- (a) require the owner or person, for the time being in charge of property or resources in a disaster area to surrender such property and resources;
 - (b) enter, by force if necessary, any place which he or she reasonably believes is necessary for the saving of the life or the prevention of injury to persons or for the rescue of injured or people in danger or for facilitating the carrying out of other urgent measures with respect to the relief of the suffering and distress;
 - (c) close to traffic any road, street, private way, service lane or access way or close any public place; and
 - (d) remove from any place a vehicle that is impeding response and relief efforts and to in order to facilitate its removal, may use such forces as is reasonably necessary to break into the vehicle.
- (3) The powers conferred upon the Minister by subsection (1) may be exercised also by a police officer, a member of the army or a member of the Fire Emergency Service and any other authorised person.
- (4) For the purpose conferred upon this section, authorised person means, any person to whom powers are delegated by the Minister or Regional Administrator.

PART VI
DISASTER MANAGEMENT RESPONSIBILITIES OF GOVERNMENT
AT NATIONAL AND REGIONAL LEVELS

Duties of Ministries

33. The following Ministries -

- (i) Ministry responsible for Disaster Management;
- (ii) Ministry of Natural Resources and Energy;
- (iii) Ministry of Tourism, Environment and Communication;

- (iv) Ministry of Agriculture and Co-operatives;
- (v) Ministry of Health and Social Welfare;
- (vi) Ministry of Public Works and Transport;
- (vii) Ministry of Local Government; and
- (viii) Ministry of Foreign Affairs.

shall, consistent with the provisions of this Act and the national disaster management plan, and in collaboration with the Council and the Agency -

- (a) prepare disaster management and emergency management plans, within two years of the coming into force of this Act and at least every five years thereafter setting out -
 - (i) the way in which the measures for the different phases of disaster management is to be applied in its functional area;
 - (ii) assessment of disaster risk and analysis at vulnerabilities undertaken or to be undertaken.
 - (iii) identification of priority developmental programmes that address vulnerabilities and exposure by communities to risk and repeated threats or losses;
 - (iv) details concerning the installation and implementation of early warning systems within the framework of the national early warning system;
 - (v) proposals regarding the investment in disaster resistant services and infrastructure to minimise loss;
 - (vi) its role and responsibilities in terms of National Disaster Management Plan;
 - (vii) its role and responsibilities regarding emergency response and relief and post-disaster recovery and rehabilitation;
 - (viii) its capacity to fulfil its role and responsibilities;
 - (ix) particulars of its disaster management programmes and procedures; and
 - (x) contingency strategies and emergency procedures in the event of a disaster occurrence, including measures to finance these strategies and procedures.
- (b) co-ordinate and align the implementation of its plans, programmes and procedures with those of other government and institutional role players;
- (c) take necessary and appropriate measures to implement disaster management policies, plans, programmes and procedures;
- (d) where appropriate, develop guidelines for the inclusion of disaster impact assessment into development planning and project approval mechanisms;
- (e) develop effective performance standards for disaster management;

- (f) monitor the preparation of regional disaster management and emergency plans and ensure that plans are consistent with national local government reform and decentralization policy and with community priorities and objectives;
- (g) analyse data and disseminate information in order to support and facilitate the implementation of disaster management policy, management and procedures;
- (h) promote and implement public awareness programmes especially in respect to know hazards;
- (i) mobilise national resources for disaster management in order to support regional and if necessary, local resources;
- (j) raise funds for disaster management in collaboration with the Minister responsible for foreign affairs;
- (k) evaluate the effectiveness of disaster management planning and co-ordination in any post-disaster situation;
- (l) develop guidelines for the integration of relevant aspects of disaster management into existing basic and continuing education programmes; and
- (m) perform any other functions or duty as the Minister may prescribe.

Duties of Regions

34. Every region shall, consistent with the provisions of this Act and the national disaster management plan, and in collaboration with the Council and the Agency, -

- (a) prepare disaster management and emergency management plans, within two years of the coming into force of this Act and at least every five years thereafter setting out -
 - (i) the measures to be taken for the different phases of disaster management;
 - (ii) assessment of disaster risk and analysis of vulnerabilities undertaken or to be undertaken;
 - (iii) identification of priority developmental strategies that address vulnerabilities and exposure by communities to risk and repeated threats or losses;
 - (iv) details regarding the installation and implementation of early warning systems;
 - (v) proposals for the investment in disaster resistant services and infrastructure to minimise loss;
 - (vi) its role and responsibilities in terms of the National Disaster Management Plan;
 - (vii) its capacity to fulfil its role and responsibilities;
 - (viii) particulars of its disaster management programmes and procedures;
 - (ix) contingency strategies and emergency procedures in the event of a disaster occurrence including measures to finance its strategies;
- (b) ensure the implementation of disaster management policy, plans, programmes and procedures at regional, inkhundla and community level and monitor such arrangement consistent with national local government reform and decentralization policy;

- (c) acts as a repository and conduct of information from the inkhundla and communities and development planning and programming processes;
- (d) mobilise regional resources for disaster management, in support of resources at inkhundla and community level;
- (e) establish and sustain structures and processes for promoting and implementing disaster management training at regional, inkhundla and community level;
- (f) promote public information and awareness programme at regional, inkhundla and community level;
- (g) collect and disseminate data and information on regional disaster management issues; and
- (h) perform any other function or duty as the Minister may prescribe.

PART VII DISASTER MANAGEMENT FUND

Establishment and objective

35. (1) The Minister responsible for finance shall establish a fund to be known as the Disaster Management Fund.

(2) The objective of the Fund is to provide funding for the national disaster management plan, emergency relief, restoration of infrastructure and services directly linked with relief operations, and compensation for volunteers and other persons engaged in disaster management in terms of this Act.

(3) The Director shall maintain a separate account to the Fund in which he or she shall record the receipts and disbursements referred to in sections 36 and 37.

(4) The Director shall maintain accounts in which shall be recorded receipts into the Fund and disbursements from the Fund.

(5) In maintaining the accounts referred to in subsection (3), the Director shall observe the provisions of other applicable laws governing the receipt, control and disbursements of public funds.

Receipts

36. There shall be paid into the Fund -

- (a) moneys donated from any source for the purpose of disaster management;
- (b) moneys appropriated from Parliament for this purpose; and
- (c) interest arising out of any investment of the fund.

Disbursements

37. There shall be paid out of the Fund any expenses as may be approved by the Minister.

Donations

38. (1) Donations shall be taken on charge and accounted for in accordance with any other applicable law governing the receipt, issue and control of public resources and related matters.

(2) Donations shall, wherever possible, only be used for the purpose for which they have been donated provided that where no conditions are attached; they may be used for the purposes for implementing disaster management programmes.

Financial Year

39. The financial year shall be the period from the first day of April to the thirty-first day of March of the succeeding year, inclusive of both days.

Annual budget

40. The Agency and the Council shall prepare and present to the Minister for Cabinet approval, in advance of each financial year, a budget for that year, indicating anticipated revenues, allocation of the revenues and expenditure.

Audit

41. (1) The accounts of the Director shall be audited by the Auditor General or auditors appointed by him or her.

(2) The auditors shall complete their audit of accounts of the Fund within three months of the end of each financial year and shall include, in the report, assessments relating to the effectiveness and the administration of the Fund.

(3) The Director shall submit the auditor's report with comments to the Minister within one month from the date of its completion.

Reports

42. (1) As soon as possible after the close of the financial year, but no later than three months thereafter, the Director shall present to the Minister an annual report and audited accounts of the fund comprising -

(a) a balance sheet showing the assets and liabilities of the Fund at the close of the financial year; and

(b) a statement showing the receipt and disposal of any moneys donated.

(2) The Minister shall submit a copy of the annual report and audited accounts to Cabinet.

**PART VIII
MISCELLANEOUS**

Regulations

43. The Minister may make regulations, not inconsistent with this Act, concerning any matter that -

(a) may be prescribed in terms of the provisions of this Act; or

- (b) in the opinion of the Minister is necessary or expedient for the effective carrying out or furtherance of the provision and objects of this Act.

Delegation of powers

44. (1) The Minister or Regional Administrator may delegate a power, function or duty vested in him or her to any person in the public service.

(2) The Minister or Regional Administrator may permit a person to whom a power, function or duty has been delegated to further delegate that power, function or duty.

(3) A delegation -

(a) shall be in writing;

(b) may be made subject to conditions;

(c) may not prevent the exercise of the power, function or duty by the Minister or Regional Administrator himself or herself as the case may be; and

(d) may be withdrawn by the Minister or Regional Administrator as the case may be.

Offence

45. (1) A person commits an offence where the person fails to comply with a request made by a person contemplated in terms of Section 32;

(2) A person convicted of an offence mentioned in subsection (1) is liable to a fine of one thousand Emalangenzi or to imprisonment not exceeding three months or both.

Indemnity

46. (1) The Minister or any other person performing a function or exercising a power in terms of this Act is not liable for anything done in good faith in terms of this Act or in furthering the objects of this Act.

(2) The Minister shall reimburse every volunteer and other person employed in a disaster management organization established under this Act for any reasonable expense or liability incurred by such volunteer or person resulting from carrying out any order of performing a function or exercising a power in terms of this Act.

PART C

S30

LEGAL NOTICE NO. 48 OF 2006

THE ROAD TRAFFIC ACT, 1965
(Act No. 6 of 1965)

THE ROAD TOLL REGULATIONS (AMENDMENT) NOTICE, 2006
(Under Section 28)

In exercise of the powers conferred by section 28 of the Road Traffic Act, 1965, the Minister hereby issues the following Notice:-

Citation and Commencement

1. This Notice may be cited as The Road Toll Regulations (Amendment) Notice, 2006 and shall be read as one with the Road Toll Regulations 1978. The Notice shall come into force on 1 May 2006.

Amendment of Section 3 (2)

2. (1) Section 3 (2) is amended by deleting the amount stipulated under (d) and substituting the amount with following amount:-

(d) E50.00

(2) Section 3 (2) is further amended by inserting (e) as follows:-

(e) heavy motor vehicle registered in a foreign country
E80.00

M. E. MADLOPHA
PRINCIPAL SECRETARY

MBABANE
..... February, 2006.

