

Office of the Chairperson

Portfolio Committee on Human Settlements and Co-operative Governance and Traditional Affairs

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NEGOTIATING MANDATE

To : The Chairperson: Select Committee on
Cooperative Governance and Traditional
Affairs

Name of the Bill : Disaster Management Amendment Bill

Number of the Bill : [B10B-2015]

Date of Deliberation : 21 August 2015

Vote of the Legislature :

Mandate of the Legislature : The Portfolio Committee on Human Settlements and Co-operative Governance and Traditional Affairs (the committee), after considering the Disaster Management Amendment Bill (B10B-2015) confers on the permanent delegate representing the Mpumalanga Provincial Legislature in the NCOP, the mandate to negotiate in favour of the Bill taking into consideration the views of the community members as contained in the attached report. There are no proposed amendments.

HON WT MADILENG

**CHAIRPERSON: PORTFOLIO COMMITTEE
ON HUMAN SETTLEMENTS, CO-OPERATIVE GOVERNANCE AND
TRADITIONAL AFFAIRS**

2015.08.21
DATE

REPORT OF THE PORTFOLIO COMMITTEE ON HUMAN SETTLEMENTS, CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS ON DISASTER MANAGEMENT AMENDMENT BILL, [B10B-2015]

1. INTRODUCTION

The Speaker referred the Disaster Management Amendment Bill, [B10B-2015] to the Portfolio Committee on Human Settlements, Co-operative Governance and Traditional Affairs (the Committee) for consideration and report back to the House in accordance with the Rules and Orders of the Mpumalanga Provincial Legislature.

In terms of section 118(1) of the Constitution of the Republic of South Africa, Act 108 of 1996, the Legislature has a mandate to facilitate public involvement in the legislative and other processes of the Legislature and its committees. It is against this background that the Committee conducted a public hearing to solicit inputs and views from members of the public on the above-mentioned Bill.

2. OBJECTIVES OF THE BILL

The purpose of the Bill is mainly;

- To amend the existing legislation known as Disaster Management Act 57 2002
- Re-affirming the role of municipalities (both at district and local level) to establish disaster management centres and improve capacity for the development and coordination of disaster management plans.
- The representation of traditional leaders in the disaster management advisory forums.

3. METHOD OF WORK

The Committee met with the NCOP permanent delegate, Hon MT Mhlanga, the Director from the National Department of Co-operative Governance and Traditional Affairs, as well as Mpumalanga Department of Co-operative Governance on 04 August 2015 for a briefing on the Bill. The Committee then decided to conduct a public hearing after conducting a radio slot on Ligwalagwala FM radio station in order to solicit inputs/comments from members of the public.

The Public hearings were conducted on Thursday, 06 August 2015, from 09h00 – 13h00 in the following Districts.

DISTRICT	VENUE	No. of Attendees
Ehlanzeni	Thulamahashe Community Hall – Bushbuckridge Local Municipality	123
Nkangala	Kwaggafontein Community Hall – Thembisile Hani Local Municipality	155
Gert Sibande	Sinqobile Community Hall (Daggakraal) – Dr Pixley Ka Isaka Seme Local Municipality	279

The committee thereafter met on 21 August 2015 to consider the draft report and the negotiating mandate on the Disaster Management Amendment Bill [B10B-2015] and such mandate was duly submitted to the NCOP.

4. INTERACTION BY THE COMMITTEE WITH NCOP PERMANENT DELEGATE AND DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS ON THE BILL

The permanent delegate representing Mpumalanga Provincial Legislature in the NCOP and the Director of National Department of Cogta made a presentation regarding the Bill. The Committee made some comments, asked clarity seeking questions.

The permanent delegate highlighted the background on the Bill as follows;

- ❖ Disaster management is a functional area listed in Schedule 4A of the Constitution. This implies that the national legislative authority has concurrent competence with the provincial legislative authority;
- ❖ The Disaster Management Act, 2002 (the principal Act) is internationally reputed for its emphasis on prevention and its relative comprehensive approach to Disaster Risk Reduction (DRR).
- ❖ The main thrust of the principle Act & the National Disaster Management Framework, 2005 (NDMF) centres around the creation of appropriate institutional arrangements for disaster management. It is argued that the ideals of disaster management cannot be achieved without structures to support its myriad of actions;
- ❖ However, the implementation has posed significant challenges, particularly at the level of local municipalities. The purpose of the review was to tackle these challenges by maximising the effect of disaster management legislation to communities, especially those most at risk. Clarifying terminology.
- ❖ The representation of traditional leaders in the disaster management advisory forums.

- ❖ Providing for the NDMAF to serve as the SA National Platform for DRR thereby incorporating the obligations set out in global commitments (Hyogo Framework of Action, followed by Sendai Framework for DRR).
- ❖ Clarifying the roles and responsibilities of organs of state to assist the disaster management structures.
- ❖ Strengthening reporting on policy implementation, DRR, relief, recovery and rehabilitation efforts using IGR structures.
- ❖ Expanding the contents of disaster management plans of organs of state to include expected climate change impacts and risks.
- ❖ Re-affirming the role of municipalities (both at district and local level) to establish disaster management centres and improve capacity for the development and coordination of disaster management plans.
- ❖ Granting the Minister authority to make regulations on education, training, research and the classification and declaration of disasters.

The Permanent Delegate, Hon MT Mhlanga also reported that the National Assembly Portfolio Committee (NA PC) on Cooperative Governance and Traditional Affairs considered and supported the Disaster Management Amendment Bill after agreeing to some minor amendments to the Disaster Management Amendment Bill set out below: The NA PC agreed that;

- ❖ The Head: NDMC must report to the Minister; (clause 4)
- ❖ an organ of state must (i) report to the NDMC on the analysis of the impact of the disaster in accordance with gender, age, disability and cultural perspectives (articulated in the recently adopted Sendai Framework for Disaster Risk Reduction 2015 -2030) and, (ii) provide the NDMC 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 NA PC agreed, in clause 11, that (i) specific measures are taken to address the needs of women, children, the elderly and persons with disabilities during the disaster management process; and (ii) that a major public entity, listed in Schedule 2 to the Public Finance Management Act, 1999 (Act No.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.
- ❖ The NA PC agreed in clause 13, 17 and 18, that specific measures are taken by (provincial, and municipal) organs of state to address the needs of women, children, the elderly and persons with disabilities during the disaster management process;

Placement of Disaster Management in the organisational structure

- ❖ It was also reported that careful consideration should be given to the placement of Disaster Management Centres in the organisational structure to fulfil its strategic role to effectively reduce the risk of disaster and be responsive to the needs of communities in the municipality.
- ❖ The Head of the Disaster Management Centre should thus form part of the decision-making structure of the organisation and should ideally report to the highest office within a municipality and province, respectively. Such an approach empowers the executive leadership to ensure that the disaster management centre is fulfilling its coordination and strategic role to effectively reduce the risk of disaster within that particular sphere of government.

Funding arrangements for disaster management

- ❖ The funding approach put forward by National Treasury is in line with the fiscal framework set out in the Constitution of South Africa, the PFMA, the MFMA, the annual DORA, the Disaster Management Act, 2002, the Municipal Systems Act, 2000 and the National Disaster Management Framework, 2005.
- ❖ Enabler 3 of the National Disaster Management Framework, flows from section 7(2)(k) of the Disaster Management Act, 2002 and provides the framework within which organs of state may fund disaster management. It was agreed with National Treasury that there is a need to review Enabler 3 of the National Disaster Management Framework, 2005 to bring it in line with the contemporary fiscal arrangements within government. This process has already commenced with the identification of the stakeholder members to represent their organs of state in the task team. The first meeting is scheduled for 31 July 2015.

Implementation on the Bill

Once the Bill is passed into law, the Department of Cooperative Governance will have sessions to engage with provinces and municipalities (including SALGA) on the substance of the Amendment Act. Circulars will also be distributed to provinces, municipalities and stakeholders.

Regulations concerning the declaration and classification of disasters will be published before the end of the 2016/17 financial year.

Communication implications

Once the Disaster Management Amendment Bill has been published, appropriate communication mechanisms will be activated through the Department of Cooperative Governance and Traditional Affairs (COGTA) and the Government Communication and Information System (GCIS).

Constitutional implications

The Bill seeks to give effect to the principles of co-operative government set out in chapter 3 of the Constitution through clear guidance on issues of disaster management across the spheres of government. Furthermore, by placing emphasis on reducing the risk of disasters, it also affirms the collective duty on the part of each sphere of government and all organs of state within each sphere to 'secure the well-being of the people of the Republic'.

Implications for vulnerable groups

The interest of vulnerable communities and groups are protected through a focus on disaster risk reduction across the spheres and sectors of government

5. INTERACTION BY THE COMMITTEE WITH STAKEHOLDERS ON THE BILL

The following stakeholders were invited by the Committee to attend the public hearing held on 06 August 2015;

- ❖ Community Members
- ❖ Department of Co-operative Governance and Traditional Affairs
- ❖ Department of Human Settlements
- ❖ Mpumalanga House of Traditional Leaders (HTL)

- ❖ Public Service Commission (PSC)
- ❖ South African Local Government Association (SALGA)
- ❖ Executive Mayors of Districts
- ❖ Ward Committees
- ❖ Community Development Workers

During the public hearings, members of the committee explained the Bill thoroughly. The Committee also reported that the Disaster Management Act 57 of 2002 had some challenges that were experienced in implementing the principal Act which necessitated that the Act be amended making it simpler to implement, to strengthen certain regulatory provisions, avoid ambiguity and provide greater legal certainty. This amendment is necessary for the interests of effective administration and also responded to the questions of clarity raised thereafter.

The stakeholders who were present at the public hearing generally supported the Bill but raised concerns which were also related to the Bill as follows;

- Disaster Management Offices should be established and be nearer to communities;
- Personnel to be employed when the disaster offices are in operation should be people from the area, they must be trained and well capacitated;
- The consideration of the designated groups (women, children, people with disabilities and the elderly) was appreciated.
- The budget allocation should be taken from the Department of Public Works, Roads and Transport and be placed in its own office (plan for and establish a National Disaster Management Office) for administrative and management purposes. The office must be having the necessary personnel and the personnel must be well capacitated for the job at hand.

- Adequate budget should be allocated to address declared disasters.
- There should be prescribed time frame for addressing a declared disaster – the bill must include a turnaround time.
- The disaster management centres must be well capacitated – with the necessary (well trained) personnel and tools of trade (equipment, machinery and resources). The disaster management centres should have appointed Risk Assessors responsible for risk assessment and development of prevention measures and also corrective measures accordingly.
- Local disaster management plans must be reviewed periodically or as per a need.
- The definition of disaster should be clear and also outline incidents that are not disaster.
- Monitoring and evaluation of declared disasters should be strengthened.
- Clarity on categorization of a disaster, as opposed to an “incident” or a man-made disaster.

6. OBSERVATIONS AND FINDINGS BY THE COMMITTEE

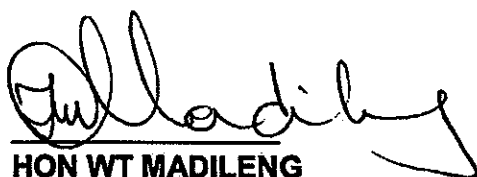
Generally, members of the public were in support of the Bill.

7. RECOMMENDATIONS

The Portfolio Committee on Human Settlements, Co-operative Governance and Traditional Affairs after considering the Bill confers on the permanent delegate representing the Province of Mpumalanga in the NCOP, the mandate to negotiate in considering the proposed Amendments of the Bill.

8. CONCLUSION

The Chairperson wishes to thank all members of the public for their worthwhile participation in the public hearings and for the inputs or comments they have made. A word of gratitude to the NCOP Permanent Delegate, Hon Mhlanga, the Director from the National Department of Co-operative Governance and Traditional Affairs, Mpumalanga Department of Co-operative Governance and Traditional Affairs, Members of the Portfolio Committee on Human Settlements and Co-operative Governance and Traditional Affairs for their efforts in ensuring that the committee meets its obligation and the support staff who contributed to the success of the public hearings and the production of this report.



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