



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

N\$20.00

WINDHOEK - 3 September 2012

No. 5029

CONTENTS

Page

GOVERNMENT NOTICE

No. 228 Promulgation of Disaster Risk Management Act, 2012 (Act No. 10 of 2012), of the
Parliament 1

Government Notice

OFFICE OF THE PRIME MINISTER

No. 228

2012

PROMULGATION OF ACT OF PARLIAMENT

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 10 of 2012: Disaster Risk Management Act, 2012.

Act No. 10, 2012

DISASTER RISK MANAGEMENT ACT, 2012

ACT

To provide for the establishment of institutions for disaster risk management in Namibia; to provide for an integrated and coordinated disaster management approach 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; to provide for declarations of national, regional and local disasters; to provide for the establishment of the National Disaster Management Risk Fund; and to provide for incidental matters.

(Signed by the President on 1 August 2012)

PART I

ARRANGEMENT OF SECTIONS PRELIMINARY PROVISIONS

1. Definitions
2. Responsibilities of the Prime Minister

PART II

NAMIBIA DISASTER RISK MANAGEMENT INSTITUTIONS

3. Disaster risk management institutions
4. National Disaster Risk Management Committee
5. Functions, duties and powers of Committee
6. Tenure and vacation of office
7. Conduct of members and disclosure of interest
8. Procedure and meetings of Committee
9. Sub-committees
10. Administration and finance
11. Directorate: Disaster Risk Management
12. National focal persons
13. Namibia Vulnerability Assessment Committee
14. Regional Disaster Risk Management Committees
15. Constituency Disaster Risk Management Committees
16. Settlement Disaster Risk Management Committees
17. Local Authorities Disaster Risk Management Committees
18. Disaster risk management volunteer units
19. Volunteers

PART III

DISASTER RISK MANAGEMENT FRAMEWORK, PROGRAMMES AND PLANS

20. National disaster risk management framework
21. National disaster risk management plan
22. Governmental institutions disaster risk management programmes
23. Governmental institutions disaster risk management plans
24. Regional disaster risk management programmes
25. Regional disaster risk management plans
26. Disaster risk management programmes for settlements
27. Disaster risk management plans for settlements

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

28. Disaster risk management programmes for local authorities
29. Disaster risk management plans for local authorities

PART IV
DECLARATION OF STATE OF DISASTER

30. Declaration of state of national disaster
31. Responsibilities of Committee during state of national disaster
32. Authorised officers for national disaster
33. General powers of authorised officers
34. Powers of authorised officers to requisition property and land
35. Declaration of a regional disaster
36. Responsibilities of regional governor during a regional disaster
37. Authorised officers for regional disaster
38. Declaration of a local disaster
39. Authorised officers for local disaster
40. Establishment of Crisis Committee during state of disaster
41. Involvement of uniformed forces in disaster situations
42. Compensation for loss of or damage to property
43. Compensation for death or injury
44. Indemnity for persons acting under this Act

PART V
NATIONAL DISASTER FUND

45. Establishment of Fund
46. Finances of Fund
47. Advances to Fund
48. Objectives of Fund
49. Application of Fund
50. Administration of Fund and accountability
51. Financial year of Fund and auditing of books, accounts and balance sheets
52. Exemption from payment of tax and other charges and other related matters

PART VI
GENERAL

53. Application of other laws
54. Co-operation agreements
55. Training
56. Offences and penalties
57. Regulations
58. Application of Act
59. Repeals and savings
60. Short title and commencement

BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:

Act No. 10, 2012

DISASTER RISK MANAGEMENT ACT, 2012

PART 1
PRELIMINARY PROVISIONS

Definitions

1. In this Act, unless the context indicates otherwise –

“chief regional officer” means a chief regional officer as defined in section 1 of the Regional Councils Act;

“Committee” means the National Disaster Risk Management Committee established in terms of section 4;

“constituency” means as constituency for which a member of a regional council has been elected as determined in terms of section 4 of the Regional Councils Act;

“constituency committee” means a constituency disaster risk management committee established in terms of section 15;

“Director” means the Director: Disaster Risk Management appointed in terms of section 11(2);

“Directorate” means the Directorate: Disaster Risk Management established in terms of section 11(1);

“disaster” means any serious disruption of the functioning of a community or society, posing a significant, widespread threat to human life, health, property or the environment, which exceeds the ability of the affected community or society to cope using its own resources resulting from –

- (a) natural disaster, major accident or other significant events howsoever caused;
- (b) destruction or pollution;
- (c) scarcity of essential supplies;
- (d) disruption of essential services;
- (e) influx of refugees;
- (f) plague or epidemic of diseases; or
- (g) economic failure; or

“disaster institutions” means the institutions for disaster risk management referred to in section 3;

“disaster risk management” means a continuous and integrated multi-sectoral and multi-disciplinary process of planning and implementation of measures aimed at –

- (a) preventing or reducing the risk of disasters;
- (b) mitigating the severity or consequences of disasters;

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (c) emergency preparedness;
- (d) a rapid and effective response to disasters; and
- (e) post-disaster recovery and rehabilitation;

“disaster risk reduction” means the concept and practice of reducing disaster risks through systematic efforts to analyze and manage the causal factors of disasters, including through reduced exposure to hazards, lessened vulnerability of people and property, application of measures including environmental management, land-use and urban planning, protection of critical facilities, application of science and technology, partnership and networking, and financial instruments, early warning systems including forecasting, dissemination of warnings, preparedness measures and reaction capacities;

“disaster response” means the activities and programs designed to address the immediate and short-term effects of the onset of an emergency or a disaster that include immediate actions to save lives, protect property, and meet basic human needs;

“Fund” means the National Disaster Fund established by section 45;

“governmental institution” means –

- (a) a ministry, an agency or office as defined in section 1 of the Public Service Act, 1995; or
- (b) any statutory body;

“head of a local authority council” means the mayor of a local authority or the political head of a town or village council;

“local authority” means a municipality, town or village as defined in terms of section 1 of the Local Authorities Act, 1992 (Act No. 23 of 1992);

“local authority council” means a municipal, town or village council as defined in section 1 of the Local Authorities Act, 1992 (Act No. 23 of 1992);

“local authority committee” means a local authority disaster risk management committee established in terms of section 17(1);

“local disaster” means a local disaster declared in terms of section 38;

“prescribe” means prescribe by regulations made under section 57;

“region” means a region as defined in section 1 of the Regional Councils Act;

“regional committee” means a regional disaster risk management committee established in terms of section 14;

“regional council” means a regional council as defined in section 1 of the Regional Councils Act;

“regional councilor” means a member of a regional council elected in terms of section 4(2) of the Regional Councils Act;

Act No. 10, 2012 DISASTER RISK MANAGEMENT ACT, 2012

“Regional Councils Act” means the Regional Councils Act, 1992 (Act No. 22 of 1992);

“regional disaster” means a regional disaster declared in terms of section 35;

“regional governor” means the governor of a region appointed as such in terms of section 2 of the Special Advisors and Regional Governors Appointment Act, 1990 (Act No. 6 of 1990);

“repealed law” means the laws repealed by section 59;

“settlement area” means a settlement area as defined in section 1 of the Regional Councils Act;

“settlement committee” means a settlement disaster risk management committee established in terms of section 16;

“state of national disaster” means a state of national disaster declared in terms of section 30 but excludes a state of national defence or public emergency declared as a state of emergency by the President in terms of Article 26(1) of the Namibian Constitution;

“statutory body” means –

- (a) any commission established by or in terms of the Namibian Constitution or any legislation in Namibia; or
- (b) a State-owned enterprise as defined in section 1 of the State-owned Enterprises Governance Act, 2006 (Act No. 2 of 2006);

“this Act” includes regulations made under section 57;

“volunteer” means a person who has applied to be a volunteer and whose name is entered in a register of volunteers in terms of section 19;

“vulnerability” means a set of conditions and processes rooted in conditions of physical, social, economic and environmental factors which increase the susceptibility of an individual or community to the impact of hazards; and

“Vulnerability Committee” means the Namibia Vulnerability Assessment Committee established by section 13.

Responsibilities of Prime Minister

2. (1) The Prime Minister is responsible for Namibia’s overall disaster risk management policy and, subject to the advice or recommendations of the Committee and the provisions of this Act, the Prime Minister is responsible for –

- (a) the initiation, formulation and development of policies on all matters pertaining to disaster risk management and for performing any functions assigned to him or her by or under this Act;
- (b) advising the President, Cabinet and the disaster institutions on matters relating to disaster risk management; and

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

(c) the overall administration of this Act.

(2) Without prejudice to the generality of subsection (1) the Prime Minister may give general or specific policy directives to the disaster institutions or to any person or group of persons and the disaster institutions, person or group of persons must comply with such directives.

(3) The Prime Minister must publish or cause to be published, in the *Gazette* or in any other manner which ensures that the public is informed, any policy document developed under subsection (1) or, where appropriate, any policy directive given under subsection (2).

PART II**NAMIBIA DISASTER RISK MANAGEMENT INSTITUTIONS****Disaster risk management institutions**

3. (1) The following institutions are responsible for disaster risk management in Namibia:

- (a) the National Disaster Risk Management Committee;
- (b) the Directorate: Disaster Risk Management;
- (c) the Namibia Vulnerability Assessment Committee;
- (d) Regional Disaster Risk Management Committees;
- (e) Constituency Disaster Risk Management Committees;
- (f) Local Authorities Disaster Risk Management Committees; and
- (g) Settlement Disaster Risk Management Committees.

(2) Each of the disaster institutions performs functions and exercises powers as are assigned to it or conferred on it by this Act.

National Disaster Risk Management Committee

4. (1) The Prime Minister must establish the National Disaster Risk Management Committee to advise the President and the Cabinet, through the Prime Minister, on matters relating to disaster risk management in Namibia.

(2) The Prime Minister must appoint the Committee consisting of the following persons:

- (a) the Secretary to Cabinet who is the chairperson;
- (b) the permanent secretaries of the office of the Prime Minister and the National Planning Commission;
- (c) permanent secretaries of the Ministries responsible for the following:

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (i) finance;
 - (ii) health and social services;
 - (iii) agriculture, water and forestry;
 - (iv) defence;
 - (v) education;
 - (vi) information and communication technology;
 - (vii) regional, local government and housing and rural development;
 - (viii) safety and security;
 - (ix) works and transport; and
 - (x) gender equality and child welfare;
- (d) one representative nominated by each of the following associations, organisations or institutions:
- (i) the Association for Regional Councils in Namibia; or
 - (ii) the Association for Local Authorities in Namibia; and
- (e) any other permanent secretary or representative from an association, organisation or institution that the Prime Minister may appoint to serve on the Committee except that in making such appointment the Prime Minister must ensure that the total membership of the Committee does not exceed 23 people.

(3) Whenever the appointment of any member referred to in subsection (1) (d) or when appropriate, (e) becomes necessary and any of the associations, organisations or institutions referred to in that subsection has ceased to exist or does not exist or fails to nominate the persons as contemplated in that subsection, the Prime Minister may appoint as a member of the Committee such other person as the Prime Minister may think fit.

(4) The Prime Minister must within 30 days of making an appointment in terms of subsection (2) publish in the *Gazette* the name of every person appointed as a member of the Committee, and the date from which the appointment takes effect.

(5) A person may not be eligible for appointment to the Committee if he or she -

- (a) is a member of the National Assembly or the National Council;
- (b) is an unrehabilitated insolvent;
- (c) has been convicted of an offence of which dishonesty is an element and sentenced to imprisonment without the option of a fine; or

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

(d) is considered a mentally ill person under the Mental Health Act, 1973 (Act No. 18 of 1973).

(6) A person who is appointed to the Committee in terms of subsection (2) and is disqualified to be a member of the Committee who sits on the Committee, while he or she is so disqualified and knowing or having reasonable grounds for knowing that he or she is so disqualified, commits an offence and is liable to a penalty of N\$500 for each day on which he or she sat and the fine paid is for the benefit of the Fund.

Functions, duties and powers of the Committee

5. The Committee is responsible for -

- (a) making recommendations to the Cabinet in relation to the application of this Act, amendment to this Act and the making of regulations;
- (b) advising the Prime Minister on the duties and functions to be performed in terms of this Act and on matters referred to the Committee by the Prime Minister;
- (c) ensuring that the core concepts of disaster risk reduction are integrated into the activities of each relevant governmental institution and that each of the relevant governmental institution takes primary responsibility for disaster risk management within their sector;
- (d) ensuring the establishment of effective and functional disaster risk management at all levels;
- (e) ensuring that disaster risk reduction is integrated into all development policies, strategies and programmes at national, regional, constituency and local levels;
- (f) supporting and mobilising resources for improved disaster risk assessment, the quality of information and data on disaster risk and for strengthening early warning systems;
- (g) supporting the enhancement of skills and capacities for disaster risk management at national, regional, constituency and local levels;
- (h) promoting and strengthening scientific, research and technical capacity in disaster risk reduction;
- (i) advocating the development of national information and knowledge management strategies and the establishment of stakeholder networks for disaster risk management;
- (j) reviewing and updating the disaster risk management policies;
- (k) coordinating and supervising disaster response operations;
- (l) administering the Fund;
- (m) providing advice to Cabinet on disaster situations;

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (n) promoting and supporting the integration of disaster risk reduction training into tertiary education curricula and into school curricula;
- (o) facilitating training opportunities in disaster risk management for policy makers;
- (p) endorsing disaster risk management strategies and plans and giving guidance to the Directorate in all matters pertaining to disaster risk management;
- (q) periodically reviewing policy issues regarding international appeals, soliciting, the acceptance and the use of international assistance, including international personnel; and
- (r) performing any other duty or function as may be assigned to it by the President, the Prime Minister or the Cabinet or as may be prescribed.

Tenure and vacation of office

6. (1) Subject to subsection (2), a member of the Committee, other than the chairperson or a permanent secretary, holds office for a period of three years, but a member is eligible for re-appointment at the end of his or her term of office.

- (2) A member of the Committee vacates office if he or she -
 - (a) ceases to hold the office by virtue of which he or she became a member or no longer represents the interests of the association, organisation or institution by virtue of which he or she became a member;
 - (b) has, without reasonable excuse, absented himself or herself from three consecutive meetings of the Committee;
 - (c) in writing, resigns from office; or
 - (d) becomes subject to a disqualification referred to in section 4(5).

(3) Despite subsection (2), the Prime Minister may, after affording a member an opportunity to make representations on the matter, remove a member from office if the Prime Minister has reasonable cause to believe that the member is no longer fit or able to discharge the functions of his or her office

(4) If a member of the Committee vacates office under the circumstances referred to in subsection (2) or (3) or dies, the vacancy must subject to section 4(5), be filled by -

- (a) the relevant new permanent secretary of the relevant Ministry appointed by the Prime Minister, if the appointment was made under section 4(2) (b), (c) or (e); or
- (b) a person nominated by the association, organisation or institution which originally nominated him or her for appointment, if that person was appointed under section 4(2)(d) or (e).

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

(5) A member who is appointed under subsection (4) holds office for the remainder of the period for which his or her predecessor was entitled to hold office.

Conduct of members and disclosure of interest

7. (1) A member of the Committee may not -

- (a) engage in an activity that may undermine the integrity of the Committee;
- (b) participate in any investigation or decision concerning a matter in respect of which the member has financial or other personal interest; or
- (c) use any confidential information obtained in the performance of his or her functions as a member to obtain, directly or indirectly, a financial or other advantage for himself or herself or any other person.

(2) A member who has or acquires any financial or other personal interest, either directly or indirectly, in any matter which is before the Committee for discussion and determination must -

- (a) immediately and fully disclose the interest to the Committee; and
- (b) withdraw from any further discussion or determination by the Committee of that matter.

(3) Any person who contravenes or fails to comply with the provisions of this section commits an offence and is liable on conviction to a fine not exceeding N\$5 000 or to imprisonment for a period not exceeding 12 months or to both such fine and imprisonment and the fine may be recovered by the Prime Minister by action in a competent court for the benefit of the Fund.

Procedure and meetings of Committee

8. (1) The first meeting of the Committee must be held at a place and time that the chairperson determines and subsequent meetings of the Committee must be held at a place and time that the Committee determines.

(2) Where a meeting determined by the Committee fails to take place, the Director, with the concurrence of the chairperson, must convene the next meeting of the Committee.

(3) The chairperson -

(a) may at any time convene a special meeting of the Committee; and

(b) must convene -

- (i) a special meeting of the Committee if requested thereto by the Prime Minister or at least five members of the Committee; or
- (ii) a meeting of the Committee when there is a disaster or a threatened disaster alert.

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

(4) The chairperson presides at all meetings of the Committee at which he or she is present.

(5) The permanent secretary of the office of the Prime Minister is the vice-chairperson of the Committee.

(6) The vice-chairperson presides in the absence of the chairperson from a meeting.

(7) In the absence of both the chairperson and vice-chairperson, the members present must elect one of their number to preside at that meeting and perform the functions and exercise the powers of the chairperson.

(8) At a meeting of the Committee -

(a) a majority of the members of the Committee forms a quorum;

(b) all questions are decided by a majority of votes of the members present and voting; and

(c) the member presiding has a deliberative vote and, in the event of any equality of votes, also a casting vote.

(9) The Committee may invite any person who has expert knowledge of a matter before the Committee for consideration and decision to attend a meeting of the Committee and take part in discussions in relation to that matter, but such person has no right to vote.

(10) The Director must keep or cause records to be kept of all the proceedings at meetings of the Committee.

(11) As soon as possible after a meeting of the Committee has taken place, the chairperson must cause a copy of the minutes of that meeting to be submitted to the Prime Minister.

(12) The Prime Minister may make rules regarding the holding of and procedure at meetings of the Committee including those of any sub-committee established in terms of section 9.

Sub-committees

9. (1) The Committee may establish one or more sub-committees as may be necessary, including sub-committees responsible for -

(a) health emergency management;

(b) drought management;

(c) emergency response, search and rescue;

(d) rehabilitation and recovery; and

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (e) resource mobilization.
- (2) A sub-committee appointed in terms of subsection (1) must –
 - (a) advise the Committee on the performance of its functions; and
 - (b) exercise any power or perform any function of the Committee which the Committee may delegate or assign to the sub-committee.
- (3) A sub-committee appointed by the Committee in terms of subsection (1) -
 - (a) must comprise of at least one member of the Committee who is the chairperson of the sub-committee; and
 - (b) may include any number of other persons.
- (4) A sub-committee must report to the Committee on the performance of the sub-committee's functions.
- (5) Subject to the approval of the Prime Minister, the Committee may assign any of its functions to a sub-committee on conditions the Committee may determine.

Administration and finance

10. (1) The Directorate acts as the secretariat of the Committee and the Prime Minister may designate other staff members in his or her office to assist the Director in the implementation and performance of the administrative and secretarial duties and functions of the Committee.

(2) A member of the Committee or of any sub-committee who is not in full-time employment of the State is entitled to be paid remuneration or allowances, as well as other benefits, as the Prime Minister, with the concurrence of the Minister responsible for finance, may determine.

(3) The allowances or expenses payable or reimbursable under subsection (2) are payable from money appropriated for that purpose by Parliament.

Directorate: Disaster Risk Management

11. (1) The Prime Minister must establish within his or her office the Directorate: Disaster Risk Management to perform the functions assigned to it in terms of this Act.

(2) Subject to the laws governing the public service, the Prime Minister must appoint the Director: Disaster Risk Management and may appoint other staff members as the Prime Minister considers necessary to assist the Director in the performance of his or her functions.

(3) The Directorate is responsible for coordinating disaster risk management in Namibia and executing the decisions of the Committee and to that extent it must facilitate the establishment of an integrated and coordinated system of disaster risk management in Namibia by -

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (a) all government offices, ministries and agencies at national, regional and municipal level;
 - (b) relevant statutory bodies;
 - (c) the private sector;
 - (d) other non-state role-players who are involved in disaster risk management in Namibia; and
 - (e) communities.
- (4) The Directorate is responsible for performing the following duties and functions:
- (a) facilitate and coordinate the development of a national disaster risk management policy and the framework for disaster risk management in Namibia;
 - (b) facilitate the development, strengthening and transformation of the disaster institutions;
 - (c) facilitate and coordinate disaster risk assessments undertaken in partnership with stakeholders, regional councils and local authorities;
 - (d) facilitate and coordinate the development, implementation and maintenance of integrated disaster risk management plans for disaster risk management at all levels of government which include -
 - (i) specific disaster risk reduction strategies, aimed at building resilient areas, communities, households and individuals;
 - (ii) the development and testing of contingency plans of known priority risk at all levels of government;
 - (iii) the development of response and recovery plans to ensure rapid and effective response to disasters that are occurring or are threatening to occur and to mitigate the effects of those disasters that could not have been prevented or predicted; and
 - (iv) align and consolidate national early warning systems;
 - (e) provide support to regional, constituency, settlement and local authorities disaster risk management committees or services to implement awareness programmes for the purpose of disaster risk reduction in vulnerable communities at risk to disasters;
 - (f) assist with the establishment of mechanisms for creating public awareness instilling a culture of risk avoidance;
 - (g) guide the development of a comprehensive information management and communication system;

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (h) make provision for a national education, training and research strategy;
- (i) develop, implement and maintain dynamic disaster risk management monitoring, evaluation and improvement programmes;
- (j) measure performance to evaluate effectiveness of disaster risk management and risk reduction strategies;
- (k) monitor compliance with any disaster risk management policy formulated and developed in terms of section 2 and ensure the integration of policies into development planning at all levels; and
- (l) facilitate the training of regional staff in disaster risk reduction.

National focal persons

12. (1) In order to ensure a mechanism for consultation by all stakeholders and the coordination of disaster risk management planning and operations the Committee must establish a national focal persons forum for national focal persons.

(2) Every permanent secretary or head of office of a governmental institution and every head of office of an association, organisation or institution involved in disaster risk management activities must ensure that there is at all times an official of his or her governmental institution, association, organisation or institution designated as the focal person for communication with the Director in relation to the disaster management procedures of the governmental institution, association, organisation or institution.

(3) The Director is the chairperson of the national focal persons forum.

(4) The responsibilities of the national focal persons within their government ministry, office, agency, association, organisation or institutions is to do the following:

- (a) facilitate and co-ordinate disaster risk management arrangements and planning;
- (b) facilitate the mobilisation of resources to manage significant events and disasters relevant to the functional area of the sector;
- (c) oversee the effective implementation of disaster risk management activities;
- (d) participate in disaster risk assessment processes including the assessment of post disaster impact;
- (e) activate operational units according to their contingency plans;
- (f) monitor and evaluate the capacity and resources of its organisation to meet demands of significant events and disasters;
- (g) coordinate the analysis and review of disaster risk management policies and plans;

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (h) facilitate the conduct of simulation exercises to test the contingency plans; and
- (i) facilitate the training of staff in disaster risk reduction and participate in integrated disaster risk reduction training for regional staff in disaster risk reduction.

Namibia Vulnerability Assessment Committee

13. (1) The Prime Minister must establish the Namibia Vulnerability Assessment Committee which consists of the following members appointed by the Prime Minister after consultation with the Committee -

- (a) a staff member from the Office of the Prime Minister of at least deputy director level in the public service who is the chairperson;
 - (b) one or more staff members of at least deputy director level in the public service from the Ministries responsible for-
 - (i) health and social services;
 - (ii) regional and local government and housing and rural development;
 - (iii) gender equality and child welfare;
 - (iv) agriculture, water and forestry;
 - (v) defence;
 - (vi) environment and tourism; and
 - (vii) the National Planning Commission;
 - (c) one representative who may or may not be a member of the Committee nominated by each of the following associations, organisations or institutions:
 - (i) the University of Namibia;
 - (ii) the United Nations Development Programme;
 - (iii) the World Food Programme;
 - (iv) the Food and Agriculture Organisation;
 - (v) the United Nations Children's Fund;
 - (vi) the Namibia Red Cross Society; and
 - (vii) the World Health Organisation.
- (2) The duties and functions of the Vulnerability Committee are to -

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (a) collect vulnerability information including conformation on the prevailing food security status and tracking indicators in order to -
 - (i) inform early warning on pending disasters;
 - (ii) guide rural development strategies; and
 - (iii) inform poverty reduction and social safety net programming;
- (b) assess disaster risk indicators to assess factors that influence vulnerability such as livelihoods and means of survival for communities in Namibia;
- (c) assess the outcomes of impacts of disaster on livelihoods and the way the people affected will cope in the event of hazard shocks;
- (d) update livelihood zones and baselines for monitoring vulnerability;
- (e) maintain information for recording and storing vulnerability assessment information;
- (f) compile regular vulnerability assessment reports and submit these to Cabinet through the Committee;
- (g) train regional and constituency officials on vulnerability assessment; and
- (h) monitoring early warning information.

(4) The provisions of section 4 relating to the procedure for appointment to office, section 6 relating to tenure of and vacation from office, section 7 relating to the conduct of members and disclosure of interest, section 8 relating to procedures at and meetings and section 10 relating to administrative and financial matters, apply with necessary changes to the Vulnerability Committee.

Regional Disaster Risk Management Committees

14. (1) The regional governor for each region must establish for the region a committee to be known as the regional disaster risk management committee to-

- (a) advise the relevant regional governor, on matters relating to disaster risk management in that region; and
- (b) coordinate disaster risk management among sector governmental institutions, local authorities, communities and other role-players involved in disaster risk management at regional level.

(2) A regional committee consists of the following persons appointed by the relevant regional governor for the concerned region:

- (a) the chairperson of the regional council for the region who is the chairperson of the regional committee;
- (b) the chief regional officer of the region;

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (c) the head of each relevant governmental institution represented in the region;
 - (d) all the regional councillors of the regional council;
 - (e) a representative from each local authority service situated in the region;
 - (f) a representative of any defence association, organisation or institution established in terms of the law if the association, organisation or institution is situated in the region; and
 - (g) a representative of the Namibia Red Cross Society in the region.
- (3) A regional committee is responsible for performing the following duties and functions:
- (a) participate in disaster risk assessments processes and facilitate the development of disaster risk management planning in partnership with other stakeholders within the region;
 - (b) ensure the development, implementation and maintenance of disaster risk reduction strategies which will result in resilient areas, communities, households and individuals;
 - (c) facilitate and monitor the integration of disaster risk reduction initiatives with development plans;
 - (d) facilitate the development of disaster response and recovery plans;
 - (e) coordinate the testing of sectoral and regional contingency plans;
 - (f) provide support to constituency and settlement disaster risk management committees to implement awareness programmes for the purpose of disaster risk reduction in communities exposed to specific hazards;
 - (g) assist with the establishment of mechanisms for creating public awareness to instill a culture of risk avoidance;
 - (h) guide the development of a comprehensive information management and effective communication system;
 - (i) align regional early warning systems and facilitate the establishment of a regional disaster risk information database;
 - (j) make provision for education, training and research strategy at regional level;
 - (k) monitor compliance with any disaster risk management policy formulated and developed in terms of section 2 and ensure the integration of such policies into development planning at regional level;
 - (l) mobilise resources for disaster risk management activities for the region;

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (m) liaise and consult with the Directorate on all issues pertaining to disaster risk management in the region;
- (n) promote the recruitment, training and participation of volunteers in disaster management in the region; and
- (o) submit quarterly and annual reports, minutes of meetings and resolutions made by the regional committee and any information related to disaster risk management to the Directorate.

(4) When the appointment of any member referred to in subsection (2) (d), (e) or (f) becomes necessary and any of the services, associations, organisations or institutions referred to in that subsection has ceased to exist or does not exist or fails to nominate the persons as contemplated in that subsection, a regional governor may appoint as a member of a regional committee such other person as the governor may deem fit.

(5) A regional governor must within 30 days of making an appointment in terms of subsection (2) publish in the *Gazette*, or in any manner that may be prescribed, the name of every person appointed as a member of a regional committee, together with the date from which the appointment takes effect.

(6) A person is not eligible for appointment to a regional committee if he or she -

- (a) is a member of the Committee or the National Assembly;
- (b) is an unrehabilitated insolvent;
- (c) has been convicted of an offence of which dishonesty is an element and sentenced to imprisonment without the option of a fine; or
- (d) is considered a mentally ill person under the Mental Health Act, 1973 (Act No. 18 of 1973).

(7) Any person who is in terms of subsection (6) disqualified to be a member of a regional committee and who, while he or she is so disqualified and knowing or having reasonable grounds for knowing that he or she is so disqualified, sits as a member of the regional committee, commits an offence and is liable to a penalty of N\$500 for each day on which he or she so sits, which may be recovered by the regional committee by action in any competent court for the benefit of the Fund.

(8) Subject to subsection (9), a member of a regional committee, other than the chairperson, a head appointed in terms of subsection (2)(b) or a regional councilor appointed in terms of subsection (2)(c), holds office for a period of three years, but a member is eligible for re-appointment at the end of his or her term of office.

- (9) A member of a regional committee vacates office if he or she -
 - (a) ceases to hold the office by virtue of which he or she became a member or no longer represents the interests of the association, organisation or institution by virtue of which he or she became a member;

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (b) has, without reasonable excuse, absented himself or herself from three consecutive meetings of the regional committee;
- (c) in writing, resigns from office; or
- (d) becomes subject to a disqualification referred to in subsection (6).

(10) Despite subsection (9), the regional governor may, after affording a member an opportunity to make representations on the matter, remove a member from office if the regional governor has reasonable cause to believe that the member is no longer fit or able to discharge the functions of his or her office.

(11) If a member of a regional committee vacates office under the circumstances referred to in subsection (9) or (10) or dies, the vacancy must subject to subsection (6), be filled by -

- (a) the relevant new head of the relevant government institution or the regional councilor appointed by the regional governor, if the appointment was made under subsection (2)(b) or (c); or
- (b) a person nominated by the service, association, organisation or institution which originally nominated him or her for appointment, if that person was appointed under subsection (2)(d), (e) or (f).

(12) A member who is appointed under subsection (11) holds office for the remainder of the period for which his or her predecessor was entitled to hold office.

(13) The provisions of section 7 relating to the conduct of members and disclosure of interest and section 8 relating to procedures at and meetings, apply to a regional committee with necessary changes.

(14) A regional committee may establish sub-committees to –

- (a) advise the regional committee on the performance of its functions; and
- (b) exercise any power or perform any function of the regional committee which the regional committee may delegate or assign to the sub-committee.

(15) A sub-committee appointed by a regional committee in terms of subsection (14) -

- (a) must comprise at least one member of the regional committee; and
- (b) may include any number of other persons.

(16) Subject to the approval of the regional governor, a regional committee may assign any of its functions to a sub-committee under conditions the regional committee may determine.

(17) The chief regional officer is the chairperson of every sub-committee established in terms of this section.

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

(18) The secretarial and administrative functions of a regional committee or a sub-committee is performed by staff members of the regional council made available for that purpose by the chief regional officer.

(19) A member of a regional committee or of any sub-committee who is not in full-time employment of the State is entitled to be paid such remuneration or allowances, as well as such other benefits, as the Prime Minister, with the concurrence of the Minister responsible for finance, may determine.

(20) The allowances or expenses payable or reimbursable under subsection (19) are payable from money appropriated for that purpose by Parliament and made available to the regional council.

Constituency Disaster Risk Management Committees

15. (1) The regional councilor for a constituency must establish for that constituency a committee to be known as the constituency disaster risk management committee to advise the regional councilor for that constituency on matters relating to disaster risk management in that constituency and to coordinate disaster risk management among sector governmental institutions, communities and other role-players involved in disaster risk management at constituency level.

(2) A constituency committee consists of the regional councilor for the constituency, who is the chairperson of the constituency committee, and the following persons appointed by the regional councilor:

- (a) representatives of governmental institutions at constituency level including teachers, nurses, the Namibian police force, agriculture and other extension staff;
- (b) representatives of non-governmental organisations operating in the constituency;
- (c) traditional leaders ;
- (d) representatives of faith based organisations in the constituency; and
- (e) local representatives of development partners in the constituency.

(3) A constituency committee is responsible for performing the following duties and functions -

- (a) conduct community based disaster risk assessments within the constituency;
- (b) integrate constituency disaster risk management plans into the regional disaster plans;
- (c) prepare and update constituency response and recovery plans;
- (d) coordinate disaster risk management activities in the constituency;
- (e) mobilise resources for disaster risk management for the constituency;

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (f) implementation of public information and public awareness programmes in their area;
 - (g) act as primary responding and mitigation agent within the existing capacities of the community;
 - (h) act as the channel of communication for the community on all issues related to disaster risk management; and
 - (i) promote the recruitment, training and participation of volunteers in disaster management in the constituency area.
- (4) The provisions of section 14(4) to (13) apply to a constituency committee with necessary changes.
- (5) A constituency committee may establish sub-committees –
- (a) to advise the constituency committee on the performance of its functions; and
 - (b) exercise any power or perform any function of the constituency committee which the constituency committee may delegate or assign to the sub-committee.
- (6) A sub-committee appointed by the constituency committee in terms of subsection (5) –
- (a) must comprise at least one member of a constituency committee; and
 - (b) may include any other persons.
- (7) Subject to the approval of the regional councilor, a constituency committee may assign any of its functions to a sub-committee on conditions it may decide to impose.
- (8) The chief clerk is the chairperson of every sub-committee established in terms of this section.
- (9) The secretarial and administrative functions of a constituency committee or a sub-committee is performed by staff members of the regional council made available for that purpose by the chief clerk.
- (10) A member of a constituency committee or of any sub-committee who is not in full time employment of the State is entitled to be paid such remuneration or allowances, as well as such other benefits, as the Prime Minister, with the concurrence of the Minister responsible finance, may determine.
- (11) The allowances or expenses payable or reimbursable under subsection (10) are payable from money appropriated for that purpose by Parliament and made available to the relevant regional council.

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012****Settlement Disaster Risk Management Committees**

16. (1) The regional councilor for a constituency must establish, for each settlement area within the constituency, a committee to be known as the settlement disaster risk management committee to coordinate disaster risk management among sector governmental institutions, communities and other role-players involved in disaster risk management in the relevant settlement.

(2) A settlement committee consists of the following persons appointed by the relevant regional councilor for the constituency in which the settlement area is situated:

- (a) the chief control officer of the settlement who is the chairperson of the settlement committee;
- (b) representatives of governmental institutions at settlement area level including teachers, nurses, the Namibian police force, agriculture and other extension staff;
- (c) representatives of non-governmental organisations operating in the settlement area;
- (d) traditional leaders ;
- (e) representatives of faith based organisations in the settlement area; and
- (f) local representatives of development partners in the settlement area.

(3) A settlement committee is responsible for performing the following duties and functions -

- (a) participate in disaster risk assessment, disaster risk reduction activities and in disaster response;
- (b) serve as an information source and reporting channel for the community with regard to disaster risk management matters;
- (c) sensitise the community to the importance of understanding and heeding early warnings, the effects of disasters and appropriate responses;
- (d) establish a disaster risk management task force;
- (e) develop a settlement disaster contingency plan including early warning system and activation of emergency response;
- (f) establish settlement emergency teams that respond to emergencies and disasters; and
- (g) promote the recruitment, training and participation of volunteers in disaster management in the settlement area.

(4) The provisions of section 15(4) do, subject to necessary changes and modifications required by the context, apply to a settlement committee as if it were a constituency committee.

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

(5) The secretarial and administrative functions of a settlement committee will be performed by a person appointed to perform such functions by the chairperson of the settlement committee.

(6) A member of a settlement committee who is not in full-time employment of the State is entitled to be paid such remuneration or allowances, as well as such other benefits, as the Prime Minister, with the concurrence of the Minister responsible for finance, may determine.

(7) The allowances or expenses payable or reimbursable under subsection (6) are payable from money appropriated for that purpose by Parliament and made available to the relevant regional council.

Local Authorities Disaster Risk Management Committees

17. (1) Each local authority must, subject to the Local Authorities Act, 1992 (Act No. 23 of 1992) and any law regulating or governing the provision of emergency services in local authority areas, establish within its area of jurisdiction, a local authority disaster risk management committee.

(2) A local authority committee must be established in conformity with the provisions of this Act and forms an integral part of the regional disaster risk management plan for the region in which the local authority is situated.

(3) The head of the local authority council is the chairperson of a local authority committee.

(4) A local authority committee must, subject to the applicable provisions of the Local Authorities Act, 1992 (Act No. 23 of 1992) and any law regulating or governing the provision of emergency services in local authority areas, appoint a person as head of its local authority disaster risk management centre.

(5) The head of a local authority disaster risk management centre -

(a) is responsible for the exercise by the centre of its powers and the performance of its duties; and

(b) in accordance with the directions of the local authority council, takes all decisions of the centre in the exercise of its powers and the performance of its duties and functions but he or she may, with the approval of the local authority council, delegate his or her powers, duties or functions to another person.

(6) A local authority committee must be represented on the regional committee of the region in which the local authority is situated.

(7) In addition to any duty or function imposed by law on any local authority committee or council, a local authority committee through the local authority disaster risk management centre is responsible for performing the following duties and functions -

(a) promote an integrated and co-ordinated approach to disaster management in the local authority area, with special emphasis on prevention and mitigation by -

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (i) departments and other internal units within the administration of the local authority;
 - (ii) all entities operating in the local authority area; and
 - (iii) other role-players involved in disaster management in the local authority area;
- (b) conduct disaster risk assessments within the local authority's area of jurisdiction;
 - (c) integrate the local authority's disaster risk management plan into the regional disaster plan;
 - (d) prepare and update the local authority's response and recovery plans;
 - (e) coordinate disaster risk management activities in the local authority area;
 - (f) mobilise resources for disaster risk management in the local authority area;
 - (g) facilitate the implementation of public information and public awareness programmes in its area;
 - (h) act as primary responding and mitigation agent within the existing capacities of the community;
 - (i) act as the channel of communication for the community on all issues related to disaster risk management;
 - (j) in partnership with stakeholders participate in disaster risk assessments processes and facilitate the development of disaster risk management planning;
 - (k) ensure the development, implementation and maintenance of disaster risk reduction strategies, which will result in resilient areas, communities, households and individuals;
 - (l) facilitate the development of disaster response and recovery plans;
 - (m) coordinate the testing of sectoral and regional contingency plans;
 - (n) assist with the establishment of mechanisms for creating public awareness to instil a culture of risk avoidance;
 - (o) guide the development of a comprehensive information management and effective communication system;
 - (p) align regional early warning systems and facilitate the establishment of a regional disaster risk information database;
 - (q) make provision for education, training and research strategy;

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (r) monitor compliance with any disaster risk management policy formulated and developed in terms of section 2 and ensure the integration of such policies into development planning at regional level;
- (s) promote the recruitment, training and participation of volunteers in disaster management in the local authority area;
- (t) liaise and consult with the Directorate on all issues pertaining to disaster risk management; and
- (u) submit quarterly and annual reports, minutes of meetings and resolutions made by the local authority service and any information related to disaster risk management to the local authority council for submission to the Directorate.

Disaster risk management volunteer units

18. The Prime Minister may by regulation establish one or more disaster risk management volunteer units whose membership, conditions of membership, disciplinary matters, uniform and equipment, training, remuneration will be as prescribed.

Volunteers

19. (1) A person who wishes to be a volunteer must in the manner prescribed apply to the –

- (a) Directorate, if he or she wishes to be a volunteer at national level;
- (b) chairperson of the regional, constituency or settlement committee, if he or she wishes to be a volunteer at regional, constituency or settlement level respectively; or
- (c) person who has been appointed to be the head of a local authority disaster risk management centre by a local authority council, if he or she wishes to be a volunteer to a local authority.

(2) On receipt of an application made in terms of subsection (1), the Directorate, chairperson or head of a local authority disaster risk management centre;

- (a) must consider the application; and
- (b) if satisfied that the applicant meets the prescribed requirements, cause his or her name to be entered in the register kept in terms of subsection (4).

(3) A volunteer may resign upon giving 30 days' notice to the Directorate, the relevant chairperson or the head of a local authority disaster risk management centre, which or who must remove the volunteer's name from the register .

(4) The Directorate, the chairpersons of the committees referred to in subsection (1)(b), the head of a local authority disaster risk management centre referred to in subsection (1)(c) must, maintain a register of all volunteers from the relevant area and in which must be recorded all the relevant particulars.

Act No. 10, 2012

DISASTER RISK MANAGEMENT ACT, 2012

PART III
DISASTER RISK MANAGEMENT FRAMEWORK, PROGRAMMES AND PLANS

National disaster risk management framework

20. (1) The Directorate must, in consultation with the Committee, develop a national disaster risk management framework and guidelines that will be used to develop disaster risk management programmes and plans in Namibia.

(2) The national disaster risk management framework referred to in subsection (1) aims at incorporating the following principles and strategic objectives into disaster risk management planning:

- (a) integrated strategies involving multi stakeholder participation;
- (b) timely disaster risk reduction actions that contribute to sustainable development by limiting the loss of life and livelihood and environmental and property damage;
- (c) the adequate allocation of resources to regional and local government to ensure that the most vulnerable communities can depend on reliable disaster risk management services;
- (d) the introduction of creative formal and informal initiatives that encourage risk avoidance behaviour on the part of individuals, the private sector and government;
- (e) the introduction of mechanisms to ensure that Namibia's transportation, critical services such as telecommunications, electricity and public sector infrastructure networks are able to withstand potential threats;
- (f) the introduction of mechanisms for setting and implementing minimum building standards, especially for low-cost housing, to ensure structural soundness that withstands the impact of extreme weather patterns or other adverse conditions; and
- (g) strategies to ensure that the development of marginal and environmental fragile areas is appropriate and properly planned.

National disaster risk management plan

21. (1) The Directorate must, in consultation with the Committee, develop a national disaster risk management plan which –

- (a) is based on the national disaster risk management framework;
- (b) is a composite plan comprising all the disaster risk management plans developed for Namibia;
- (c) must contain such other matters as may be prescribed; and
- (d) must be distributed to all relevant stakeholders in disaster risk management.

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

(2) The Director must submit the national disaster risk management plan to a chairperson of the Committee who must in turn submit the plan to the Cabinet for approval.

Governmental institutions disaster risk management programmes

22. (1) Every governmental institution designated by the Prime Minister must, in consultation with the Committee, develop and implement a disaster risk management programme consisting of -

- (a) a disaster risk management plan as required by section 23;
- (b) training programmes and exercises for staff members, employees and other persons with respect to the provision of necessary services and the procedures to be followed in disaster response and recovery activities;
- (c) public education on risks to public safety and on disaster preparedness, response and recovery; and
- (d) any other element required by the disaster management programmes as may be prescribed.

(2) In developing a disaster risk management program, every government institution must identify and assess the various hazards and risks to public safety that could give rise to disasters and identify the facilities and other elements of the infrastructure for which the institution is responsible that are at risk of being affected by disasters.

Governmental institutions disaster risk management plans

23. (1) Each governmental institution must formulate a disaster risk management plan for the ministry, agency, office or statutory body, as the case may be, in respect of the type of disaster assigned to it by the Prime Minister, governing the provision of necessary services during a disaster and the procedures under and the manner in which staff members or employees and other persons will respond to the disaster.

- (2) A disaster plan formulated under subsection (1) must -
- (a) authorise staff members, employees or other persons to take action under the disaster plan, where a disaster exists but has not yet been declared to exist;
 - (b) specify procedures to be taken for the safety or evacuation of persons in a disaster area;
 - (c) establish committees and designate staff members or employees to be responsible for reviewing the disaster plan, training staff members or employees in their functions and implementing the disaster plan during a disaster;
 - (d) provide for obtaining and distributing materials, equipment and supplies during a disaster;

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (e) provide for such other matters as are considered necessary or advisable for the implementation of the disaster plan during a disaster; and
 - (f) provide for any other matter as may be prescribed.
- (3) A governmental institution must –
- (a) align the development and implementation of its disaster risk management plan with those of other stakeholders and institutional role players for incorporation into the national disaster risk management plan;
 - (b) facilitate the training of personnel in the implementation of its disaster risk management plan;
 - (c) regularly review and update its disaster risk management plan; and
 - (d) submit a copy of its disaster risk management plan, and of any amendment to the plan, to the Directorate.
- (4) The Director must submit a disaster plan received in terms of subsection (3)(d) to the Committee which may adopt the plan with or without amendments and thereafter incorporate it into the national disaster risk management plan.

Regional disaster risk management programmes

24. (1) Every regional council must, in consultation with the regional committee, develop and implement in its region a disaster risk management programme consisting of -

- (a) a disaster risk management plan as required by section 25;
- (b) training programs and exercises for staff members, employees and other persons with respect to the provision of necessary services and the procedures to be followed in disaster response and recovery activities;
- (c) public education on risks to public safety and on disaster preparedness, response and recovery; and
- (d) any other element required for disaster management programs as may be prescribed.

(2) In developing a disaster risk management programme, every regional council must identify and assess the various hazards and risks to public safety that could give rise to disasters and identify the facilities and other elements including infrastructure that are at risk of being affected by disasters.

Regional disaster risk management plans

25. (1) Every regional council must formulate a composite and integral disaster risk management plan for the region, governing the provision of necessary services before, during and after a disaster and the procedures under, and the manner in which governmental institutions, local authorities, non-governmental organisations and other persons will respond to the disaster.

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (2) A disaster plan formulated under subsection (1) must –
- (a) anticipate the types of disaster that might occur in the region and their possible effects;
 - (b) identify the communities and areas at risk;
 - (c) provide for appropriate disaster risk reduction strategies;
 - (d) identify and address weaknesses in capacity to deal with possible disasters;
 - (e) facilitate maximum emergency preparedness;
 - (f) provide budget allocation for disaster risk management; and
 - (g) contain contingency plans and emergency procedures in the event of a disaster, that provide for –
 - (i) the allocation of responsibilities to the various stakeholders;
 - (ii) coordination in carrying out those responsibilities;
 - (iii) prompt disaster response and relief;
 - (iv) the procurement of essential goods and the distribution of essential services;
 - (v) the establishment of strategic communication links; and
 - (vi) the dissemination of information.
- (3) A regional council must –
- (a) align the development and implementation of its disaster risk management plan with those of other stakeholders and institutional role players for incorporation into the national disaster risk management plan;
 - (b) facilitate the training of personnel in the implementation of its disaster risk management plan;
 - (c) regularly review and update its disaster risk management plan; and
 - (d) submit a copy of its disaster risk management plan, and of any amendment to the plan, to the Directorate.
- (4) The Director must submit a disaster plan received in terms of subsection (3)(d) to the Committee which may adopt the plan with or without amendments and thereafter incorporate it into the national disaster risk management plan.

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012****Disaster risk management programmes for settlements**

26. (1) Every settlement committee must develop and implement, in the settlement area for which it is established, a disaster risk management programme consisting of -

- (a) a disaster risk management plan as required by section 27;
- (b) training programs and exercises for staff members, employees and other persons with respect to the provision of necessary services and the procedures to be followed in disaster response and recovery activities;
- (c) public education on risks to public safety and on disaster preparedness, response and recovery; and
- (d) any other element required for disaster management programs.

(2) In developing a disaster risk management program, every settlement committee must identify and assess the various hazards and risks to public safety that could give rise to disasters and identify the facilities and other elements of the infrastructure within its jurisdiction that are at risk of being affected by disasters.

Disaster risk management plans for settlements

27. (1) Every settlement committee must formulate a disaster risk management plan for the settlement area for which it is established, governing the provision of necessary services during a disaster and the procedures under, and the manner in which governmental institutions, non-government organisations and other persons will respond to the disaster.

- (2) A disaster plan formulated under subsection (1) must -
 - (a) determine the role and responsibilities of the settlement committee in relation to the national disaster risk management policy and the manner in which the concept and principles of disaster risk reduction are to be applied in its functional or jurisdictional area;
 - (b) determine the role and responsibilities of the settlement committee in respect of emergency response and disaster recovery and rehabilitation;
 - (c) include details of the settlement committee's disaster risk reduction strategies;
 - (d) establish the committee's capacity to fulfill its disaster risk management role and responsibilities;
 - (e) facilitate maximum emergency preparedness;
 - (f) include contingency strategies and emergency procedures in the event of a disaster, including measures to finance these strategies, providing for -

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (i) the allocation of responsibilities to the various stakeholders and coordination in the carrying out of those responsibilities;
 - (ii) prompt disaster response and relief;
 - (iii) the procurement of essential goods and the distribution of essential services;
 - (iv) the establishment of strategic communication links; and
 - (v) the dissemination of information.
- (3) A settlement committee must –
- (a) align the development and implementation of its disaster risk management plan with those of other stakeholders and institutional role players for incorporation into the regional disaster risk management plan;
 - (b) facilitate the training of personnel in the implementation of its disaster risk management plan;
 - (c) regularly review and update its disaster risk management plan; and
 - (d) submit a copy of its disaster risk management plan, and of any amendment to the plan, to the regional governor and the chief regional officer for incorporation into the regional plan.

Disaster risk management programmes for local authorities

28. (1) Every local authority council must develop and implement, in the local authority area for which it is established, a disaster risk management programme consisting of -

- (a) a disaster risk management plan as required by section 29;
- (b) training programs and exercises for staff members, employees and other persons with respect to the provision of necessary services and the procedures to be followed in disaster response and recovery activities;
- (c) public education on risks to public safety and on disaster preparedness, response and recovery; and
- (d) any other element required for disaster management programs as may be prescribed.

(2) In developing a disaster risk management program, every local authority council must identify and assess the various hazards and risks to public safety that could give rise to disasters and identify the facilities and other elements of the infrastructure within its jurisdiction that are at risk of being affected by disasters.

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012****Disaster risk management plans for local authorities**

29. (1) Every local authority council must formulate a disaster risk management plan for the local authority area for which it is established which -

- (a) governs the provision of necessary services during a disaster and the procedures; and
 - (b) the manner in which employees of the local authority and other persons will respond to the disaster.
- (2) A disaster plan formulated under subsection (1) must -
- (a) determine the role and responsibilities of the local authority in relation to the national disaster risk management policy and the manner in which the concept and principles of disaster risk reduction are to be applied in its functional or jurisdictional area;
 - (b) determine the local authority's role and responsibilities in respect of emergency response and disaster recovery and rehabilitation;
 - (c) designate one or more members of the local authority who may exercise the powers and perform the duties of the head of council under this Act or the disaster plan during the absence of the head of council or during his or her inability to act;
 - (d) include details of the local authority's disaster risk reduction strategies;
 - (e) establish the local authority's capacity to fulfill its disaster risk management role and responsibilities;
 - (f) facilitate maximum emergency preparedness;
 - (g) include contingency strategies and emergency procedures in the event of a disaster, including measures to finance these strategies, providing for -
 - (i) the allocation of responsibilities to the various stakeholders and coordination in the carrying out of those responsibilities;
 - (ii) prompt disaster response and relief;
 - (iii) the procurement of essential goods and the distribution of essential services;
 - (iv) the establishment of strategic communication links; and
 - (v) the dissemination of information.
- (3) A local authority council must –
- (a) align the development and implementation of its disaster risk management plan with those of other stakeholders and institutional role

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- players for incorporation into the regional disaster risk management plan;
- (b) facilitate the training of personnel in the implementation of its disaster risk management plan;
 - (c) regularly review and update its disaster risk management plan; and
 - (d) submit a copy of its disaster risk management plan, and of any amendment to the plan, to the regional governor and the chief regional officer who must cause the plan to be incorporated into the regional plan.

**PART IV
DECLARATION OF STATE OF DISASTER**

Declaration of state of national disaster

30. (1) If at any time it appears that any disaster is of such a nature and extent that extraordinary measures are necessary to assist and protect the persons affected or likely to be affected by the disaster in any area within Namibia, or that circumstances are likely to arise making such measures necessary, the chairperson of the Committee may recommend to the Cabinet that a state of national disaster be declared for the whole of or any part of Namibia.

(2) On receipt of a recommendation made under subsection (1) the Cabinet must consider it and advise the President on whether he or she should take action in terms of Article 26(1) of the Namibian Constitution.

(3) If the President is satisfied that the circumstances mentioned in subsection (1) exist, or are likely to arise and that the criteria set out in subsection (4) have been met, the President may, pursuant to article 26(1) of the Namibian Constitution, by proclamation in the *Gazette* declare that, with effect from a date specified by him or her in the declaration, a state of national disaster exists within an area defined by him or her in the declaration.

- (4) The President may declare that a state of national disaster exists only if-
- (a) there is a situation that requires immediate action to prevent, reduce or mitigate a danger of major proportions that could result in death or serious harm to persons or substantial damage to property or to the environment; and
 - (b) one or more of the following circumstances exists:
 - (i) the disaster event or process affects more than one constituency or region;
 - (ii) the resources normally available to the constituency, region or governmental institutions situated in the constituency or region cannot be relied upon without the risk of serious delay;

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (iii) the resources referred to in subparagraph (ii) may be insufficiently effective to address the disaster; or
- (iv) it is not possible, without the risk of serious delay, to ascertain whether the resources referred to in subparagraph (ii) can be relied upon.

(5) When a declaration has been made under subsection (3), the President on the advice of the Cabinet, may at any time if circumstances warrant reclassify the declaration as a regional or local disaster and he or she may in like manner reclassify a regional or local disaster declared in terms of section 35 or 38 as a national disaster.

(6) A declaration of a state of national disaster remains in force until such time that it is revoked by the President by proclamation in the *Gazette* or it ceases to have effect in terms of the provisions of Article 26 of the Namibian Constitution.

Responsibilities of Committee during state of national disaster

31. When a state of national disaster has been declared in Namibia or in any part of Namibia, the Committee must -

- (a) make arrangements for the release of any available resources of the national government, including stores, equipment, vehicles, water transport and air transport and any other facilities;
- (b) make arrangements for personnel from national level to be made temporarily available for the performance of emergency services;
- (c) implement all or any of the provisions of a disaster risk management plan that is applicable in the circumstances or initiate, order and oversee the implementation of all or any of the provisions of such a plan;
- (d) direct, regulate and oversee the evacuation to temporary shelters of all or part of the population from the disaster-stricken or threatened area if such action is necessary for the preservation of life;
- (e) regulate and oversee traffic to, from and within the disaster-stricken or threatened area;
- (f) regulate and oversee the movement of persons and goods to, from and within the disaster-stricken or threatened area;
- (g) control the occupancy of premises in the disaster-stricken or threatened area;
- (h) make provision for and control the use of temporary emergency housing;
- (i) implement any measures necessary to maintain existing, or to install temporary lines of communication to, from or within the disaster-stricken or threatened area;

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (j) issue and disseminate information required for dealing with the disaster; and
- (k) facilitate post-disaster reconstruction, rehabilitation and recovery.

Authorised officers for national disaster

32. The Director is an authorised officer for the purposes of this Act, but during a state of national disaster the chairperson of the Committee, may designate staff members in the public service or appoint other persons to be authorised officers for such periods and for such areas and subject to such conditions as may be specified in the instrument designating or appointing the staff member or person.

General powers of authorised officers

33. (1) An authorised officer may, during a state of national disaster, order in writing, direct any person -

- (a) to supply him or her with information relating to –
 - (i) employees; or
 - (ii) the existence and availability of any service, facility or thing which may be used for or in connection with the disaster and which is under the control or in the possession of such person;
- (b) to maintain such specified stocks of fuel, food, water or medical supplies for use during a state of disaster as he or she may reasonably be expected to maintain;
- (c) who is the owner or manager of any industry or trade which the authorised officer reasonably believes is an essential industry or trade, or the owner or manager of any organisation, which the authorised officer reasonably believes, renders an essential service, to take, in regard to that industry, trade or service or the continuation thereof, such steps as the authorised officer considers necessary to deal with the disaster; or
- (d) to perform any work or render any service which, as a result of the disaster, is reasonably necessary for the purpose of dealing with the situation.

(2) Every authorised officer and any person performing disaster risk management tasks in terms of this Act must keep secret and aid in keeping secret any information supplied in compliance with an order given in terms of subsection (1)(a).

(3) A person who is aggrieved by an order given in terms of subsection (1) may appeal in writing against it to the Prime Minister.

(4) In an appeal in terms of subsection (3), the Prime Minister, after inviting the authorised officer concerned to submit written representations in the matter and considering any representations so submitted, may confirm, vary or set aside the

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

order appealed against or give such other directions in the matter as he or she thinks appropriate.

(5) An authorised officer may, during a state of national disaster, in the exercise of his or her powers or the performance of his or her functions or duties in terms of the provisions of this Act –

- (a) enter, or break into and enter any premises;
- (b) damage, destroy, pull down or remove any property; or
- (c) order people to evacuate themselves and their property from a location,

if he or she believes on reasonable grounds that such action is necessary for the -

- (i) preservation of the life of persons or animals;
- (ii) prevention of injury to persons or animals;
- (iii) removal of injured persons or animals;
- (iv) protection of property;
- (v) prevention of damage to the environment; or
- (vi) combating of the state of disaster.

(6) A person who is employed at a place in respect of which an authorised officer has, in terms of the provisions of this Act, directed or prescribed the steps to be taken for the protection, may search any other person who, without the authority of an authorised officer, enters or attempts to enter such place and may seize anything which is in the possession of that other person.

Power of authorised officers to requisition land and property

34. (1) For the purposes of this section and section 42 “competent court” means a magistrates court having jurisdiction over the matter or the High Court of Namibia.

(2) An authorised officer may, while a declaration of a state of national disaster is in force -

- (a) take possession of or control over any land or other property for the purpose of dealing with the situation; or
- (b) direct any person who is the owner of or who has possession of or control over any land or other property which is required for the purposes of dealing with the disaster situation to surrender the use of such land to a specified person or to a specified authority or to deliver or make available such property to a specified person in the service of that authority.

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

(3) After taking possession or control of land or property or giving a directive in terms of subsection (2), an authorised officer must cause written notice of such taking or directive to be served on any person owning or possessing such land or property.

(4) If it is expedient to do so, the authorised officer must cause the written notice referred to in subsection (3), to be served before taking possession or control of the land or property concerned or giving the directive.

(5) A person from whom possession or control of any land or property has been or is about to be taken in terms of this section may, if he or she objects to such taking, notify the authorised officer concerned.

(6) Where an authorised officer is notified in terms of subsection (5), he or she must, within 14 days apply to a competent court for a determination of his or her entitlement to exercise his or her powers in terms of subsection (2).

(7) On an application in terms of subsection (6) the competent court may -

(a) confirm the order if it is satisfied that the exercise of the power by the authorised officer concerned in terms of subsection (2) was reasonably justifiable in the circumstances of the situation arising or existing as a result of the disaster concerned or giving rise to the declaration of the state of disaster for the purpose of dealing with that situation; or

(b) order the authorised officer to return any land or property which he or she has taken into his or her possession or control or to cancel his or her notice of intention to take possession or control thereof or to cancel his or her directive, if it is satisfied that exercise of the power by the authorised officer was not reasonably justifiable in the circumstances of the situation.

(8) When the continued possession or control by an authorised officer of any land or property taken in terms of subsection (2) is no longer reasonably justifiable as referred to in subsection (7), that land or property must, wherever possible, be promptly returned in the condition in which it was at the time of such taking of possession or control.

(9) The owner or any other person entitled to the return of any land or property in terms of subsection (8) or entitled to compensation in terms of section 42 may apply to a competent court for the return of the land or property or for the determination of the right to or the amount of such compensation, as the case may be, and the competent court must make such order..

(10) No land or other property owned or possessed by the State may be taken in terms of this section without the consent of the Minister responsible for the land or property.

Declaration of a regional disaster

35. (1) If at any time it appears that any disaster is of such a nature and extent that extraordinary measures are necessary to assist and protect the persons affected or likely to be affected by the disaster in any region, or that circumstances

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

are likely to arise making such measures necessary the chairperson of the regional committee may, after consulting the Directorate and the local authority, settlement and constituency committees established in the region, recommend to the regional governor that a state of disaster be declared in the affected part or the whole of the region.

(2) On receipt of a recommendation made under subsection (1), the regional governor must in writing inform the Prime Minister who in turn must recommend to the President to declare a state of disaster in the affected part or whole of the region.

(3) If the President is satisfied that the circumstances mentioned in subsection (1) exist, or are likely to arise and that the criteria set out in subsection (4) have been met, he or she may, pursuant to article 26(1) of the Namibian Constitution, by proclamation in the *Gazette* declare that, with effect from a date specified by him or her in the declaration, a regional disaster exists within an area defined by him or her in the declaration.

(4) The President may declare that a regional disaster exists only if-

- (a) a specific risk affects more than one local authority area, constituency or settlement area, or exceeds the capabilities of a single local authority, constituency or settlement area to manage it effectively;
- (b) the risk results in the same type of event occurring repeatedly and at different times in more than one local authority area, constituency or settlement with significant cumulative impacts on lives, property and the environment; or
- (c) the event or process affects more than one local authority, constituency, settlement or exceeds the capabilities of a single municipality, constituency, settlement to manage it effectively.

(5) A declaration of a regional disaster remains in force until such time that it is revoked by the President by proclamation in the *Gazette* or it ceases to have effect in terms of the provisions of Article 26 of the Namibian Constitution.

Responsibilities of regional governor during a regional disaster

36. When a regional disaster has been declared in a region or in any part of a region, the regional governor after consultation with the regional committee for the region must -

- (a) make arrangements for the release of any available resources of the regional council, governmental institutions, municipalities including stores, equipment, vehicles and facilities;
- (b) make arrangements for personnel of the regional council, government institutions and municipalities to be made temporarily available for the performance of emergency services;
- (c) implement all or any of the provisions of a regional disaster risk management plan that is applicable in the circumstances or initiate, order or oversee the implementation of all or any of the provisions of such a plan;

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (d) direct, regulate and oversee the evacuation to temporary shelters of all or part of the population from the emergency-stricken or threatened area if such action is necessary for the preservation of life;
- (e) regulate and oversee traffic to, from and within the emergency-stricken or threatened area;
- (f) regulate and oversee the movement of persons and goods to, from and within the emergency-stricken or threatened area;
- (g) control the occupancy of premises in the disaster-stricken or threatened area;
- (h) make provision for and control the use of temporary emergency housing;
- (i) implement any measures necessary to maintain existing or to install temporary lines of communication to, from or within the affected area;
- (j) issue and disseminate information required for dealing with the emergency; and
- (k) facilitate post-emergency reconstruction, rehabilitation and recovery.

Authorised officers for regional disaster

37. (1) During a regional disaster the regional governor, after consultation with the chairperson of the regional committee, may designate staff members employed by a regional council or appoint other persons to be authorised officers for such periods and for such areas and subject to such conditions as may be specified in the instrument designating or appointing the staff member or person.

(2) An authorised officer designated or appointed in terms of subsection (1) may within the designated region, perform functions and exercise powers conferred on an authorised officer in terms of sections 33 and 34 as if he or she were an authorised officer referred to in section 32.

Declaration of a local disaster

38. (1) If at any time it appears that any disaster is of such a nature and extent that extraordinary measures are necessary to assist and protect the persons affected or likely to be affected by the disaster in any local authority area, or that circumstances are likely to arise making such measures necessary the head of a local authority disaster risk management centre may, after consulting the Directorate, recommend to the head of the local authority council that a local disaster be declared for the whole of or any part of the local authority area.

(2) On receipt of a recommendation made under subsection (1), the head of the local authority council must in writing inform the regional governor of the region in which the local authority area is situated of the disaster situation.

(3) The regional governor referred to in subsection (2) must in writing inform the Prime Minister of the disaster situation and the Prime Minister must

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

recommend to the President to declare a state of disaster for the whole of or any part of the local authority area.

(4) If the President is satisfied that the circumstances mentioned in subsection (1) exist, or are likely to arise and that the criteria set out in subsection (5) have been met, he or she may, pursuant to article 26(1) of the Namibian Constitution, by proclamation in the *Gazette* declare that, with effect from a date specified by him or her in the declaration, a local disaster exists within an area defined by him or her in the declaration.

(5) The President may declare that a local disaster exists only if–

- (a) a specific risk exceeds the capabilities of the single local authority to manage it effectively;
- (b) the risk results in the same type of event occurring repeatedly and at different times in the local authority area with negative impact on lives, property and the natural environment; or
- (c) the event or process affects the local authority area and exceeds the capabilities of a single local authority to manage it effectively.

(6) A declaration of a local disaster remains in force until such time that it is revoked by the President by proclamation in the *Gazette* or it ceases to have effect in terms of the provisions of Article 26 of the Namibian Constitution.

Authorised officers for local disaster

39. (1) During a local disaster the chairperson of the local authority committee may designate staff members employed by the local authority or appoint other persons to be authorised officers for such periods and for such areas and subject to such conditions as may be specified in the instrument designating or appointing the staff member or person.

(2) An authorised officer designated or appointed in terms of subsection (1) may within the local authority area for which he or she has been designated or appointed, subject to necessary changes required by context, perform functions and exercise powers conferred on an authorised officer in terms of sections 33 and 34 as if he or she were an authorised officer referred to in section 32.

Establishment of Crisis Committee during state of disaster

40. (1) During a national disaster, the Prime Minister after consultation with the Committee, must establish a National Crisis Committee consisting of –

- (a) the chairperson of the Committee who is head of the team;
- (b) the permanent secretary of the Office of the Prime Minister;
- (c) the permanent secretaries of the ministries responsible for defence, safety and security, regional and local government, housing and rural development, and health and social services;

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (d) staff members of the public service depending on the type and nature of the disaster who are in charge of the departments responsible for-
- (i) hydrology;
 - (ii) disease prevention and control;
 - (iii) veterinary services;
 - (iv) roads engineering;
 - (v) maritime affairs;
 - (vi) environmental affairs; and
 - (vii) mines;
- (e) other specialist persons that the Prime Minister after consultation with the chairperson of the Committee may incorporate.
- (2) During a regional disaster, the relevant regional governor, in consultation with the regional committee, must establish a regional crisis committee consisting of –
- (a) the chief regional officer who is the head of the team;
 - (b) representatives of governmental institutions in the region;
 - (c) a representative each from the Namibian defence force, the Namibian police force and the Namibia Red Cross Society; and
 - (d) any other member that the regional governor considers essential.
- (3) The regional governor may establish one or more field command teams for specific areas within the region and such teams may consist of any of the person from any of the institutions or entities represented in subsection (2).
- (4) A regional crisis committee must perform the duties and functions or exercise the powers that are assigned to it by the authority establishing such team or as may be prescribed.

Involvement of uniformed forces in disaster situations

41. (1) For the purposes of this section “uniformed forces” means the Namibian police force, defence force and prison service established under Chapter 15 of the Namibian Constitution.

(2) The Prime Minister in consultation with the Minister responsible for defence, police or prisons may, at the request of the chairperson of the Committee, a regional, constituency or settlement committee or the head of local authority disaster risk management centre, direct that any member or unit of a uniformed force assist in any manner during a national, regional or local disaster.

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

(3) Subject to subsection (2), a member or unit of the uniformed forces may be directed to –

- (a) render to any person or authority upon whom a power or duty is conferred or imposed by or under this Act in connection with the exercise or performance of such power or duty, such assistance as may be determined by the Prime Minister;
- (b) perform functions in terms of this Act as if they were functions which such member may be required to perform under the law establishing the relevant force or service;
- (c) evaluate from time to time Namibia's preparedness relating to disaster risk management and to inform and advise the Prime Minister accordingly; and
- (d) in collaboration with the Directorate, activate disaster risk management and to co-ordinate all activities related to the disaster.

(4) The Prime Minister may prescribe the circumstances under which, the manner in which and the conditions under which members or units of the uniformed forces may be called on to assist in disaster relief operations.

Compensation for loss of or damage to property

42. (1) If any land or property of any person has been taken, damaged, removed or destroyed in terms of section 33 or if any person is in terms of section 34 directed to surrender the use of any land or to deliver or make available any property to a specified person or authority, that person is entitled to payment of compensation, out of money appropriated by Parliament for this purpose, as may be agreed on between that person and the Prime Minister.

(2) In the absence of such an agreement, compensation must be determined in accordance with the principles set out in section 9 of the Expropriation Ordinance, 1978 (Ordinance No. 13 of 1978).

(3) A dispute arising from the determination of compensation payable in terms of subsection (2) may be referred for resolution to a competent court or in terms of section 11 of the Ordinance and in that case the provisions of sections 12 and 13 of the Ordinance, if applicable, apply.

Compensation for death or injury

43. (1) The Prime Minister may make regulations providing for the payment, out of money 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 duty or function entrusted to such person in terms of this Act.

(2) Regulations referred to in subsection (1) -

(a) must -

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (i) determine the basis upon which and the conditions subject to which compensation must be paid in terms of the regulations;
- (ii) determine the authority responsible for the administration of the regulations;
- (b) may, without derogating from the generality of the provisions of subsection (1) -
 - (i) determine the persons who must be regarded as dependants for the purposes of the regulations;
 - (ii) provide for the revision and, in appropriate cases, the discountenance or reduction of any compensation payable in terms of the regulations;
 - (iii) prohibit the cession, assignment or attachment of compensation payable in terms of the regulations, or the right to any such compensation;
 - (iv) determine that any compensation received in terms of the regulations may 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 the regulations directly to the person entitled such authority may direct that compensation, or any part of it, be paid to some other person, on conditions as to its administration for the benefit of the injured person or his or her dependants as the authority may determine; or
 - (vi) provide for any other matter which Prime Minister may deem fit to prescribe in order to ensure the efficient carrying out of the regulations.

Indemnity for persons acting under this Act

44. The Prime Minister, a member of the Committee, a member of a regional, constituency, settlement or local authority committee, a sub-committee established in terms of this Act, a local authority disaster risk management centre or a person in the service of the State, a regional or local authority council, a volunteer or any person who exercises a power or performs a duty or function required to be performed in terms of this Act, is not liable for any loss or damage as a result of bodily injury, loss of life or loss of or damage to property, which is caused by or arises out of or in connection with anything which is done or performed in good faith in the exercise or performance of a power, function or duty conferred or imposed in terms of the provisions of this Act.

Act No. 10, 2012

DISASTER RISK MANAGEMENT ACT, 2012

PART V
NATIONAL DISASTER FUND

Establishment of Fund

45. There is established a fund to be known as the National Disaster Fund which is a fund designated for a special purpose as contemplated in article 125(3) of the Namibian Constitution.

Finances of Fund

- 46.** The Fund consists of -
- (a) moneys appropriated by Parliament for purposes of the Fund;
 - (b) donations or contributions made to the Fund for the purpose of the achievement of its objectives;
 - (c) moneys accruing to and vesting in the Fund from any other source and which accrues to the Fund;
 - (d) interest and dividends derived from the investment of moneys made on behalf of the Fund;
 - (e) advances made to the Fund in terms of section 47;
 - (f) any penalty or fine payable in terms of section 4(6), 7(3), 14(7), 56(2) or 57(3); and
 - (g) monies received from partnerships with stakeholders and development partners.

Advances to Fund

47. (1) Where in a financial year the income of the Fund, together with any surplus income brought forward from a previous year, is insufficient to meet the actual or estimated liabilities of the Fund, the Minister responsible for finance may make advances to the Fund out of moneys appropriated for the purpose by Parliament in order to meet the deficiency.

(2) Advances made in terms of subsection (1) are made on such terms and conditions, whether as to repayment or otherwise, as determined by the Minister responsible for finance.

Objectives of Fund

48. The objective for which the Fund is established is to serve as a contingency fund and for the development and promotion of disaster risk management in Namibia.

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012****Application of Fund**

49. (1) Without derogation from the generality of section 48, the Fund may be applied to –

- (a) research, capacity building and training programmes to promote and strengthen disaster risk management;
- (b) the acquisition of land, equipment, materials and other assets and the construction of buildings in order to promote the objectives of this Act;
- (c) meeting any expenses arising from the establishment and maintenance of the Fund;
- (d) the acquisition of relief assistance, disaster recovery and rehabilitation assistance which may be made available to governmental institutions, regional councils or local authority councils which meet the prescribed requirements; and
- (e) any other purpose which the Prime Minister considers to be in the interests of and contributes to the promotion of disaster risk management in Namibia.

(2) Specific donations to the Fund must be utilised in a manner as agreed to between the Fund management and the donor.

Administration of Fund and accountability

50. (1) For the purposes of the State Finance Act, 1991 (Act No. 31 of 1991), the Permanent Secretary in the office of the Prime Minister is, subject to subsection (2), the accounting officer of the Fund.

(2) The Committee is responsible for the administration of the Fund, subject to the directions of the Prime Minister given with the concurrence of the Minister responsible for finance, and to the rules made under subsection (3).

(3) The Prime Minister may, with the concurrence of the Minister responsible for finance, make rules relating to the administration of the Fund.

(4) The Permanent Secretary must open and maintain a banking or savings account in the name of the Fund with -

- (a) any banking institution or building society registered under the laws governing banking institutions and building societies in Namibia; or
- (b) the Post Office Savings Bank established in terms of the Posts and Telecommunications Act, 1992 (Act No.19 of 1992).

Financial year of Fund and auditing of books, accounts and balance sheets

51. (1) The financial year of the Fund ends on the 31 of March in each year.

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (2) The Permanent Secretary must -
- (a) keep such books of account as are necessary to represent fairly the state of affairs and business of the Fund and to explain the transactions and financial position of the Fund; and
 - (b) not later than three months after the end of each financial year, submit such accounts to the Auditor-General for audit.
- (3) The Auditor-General must submit a report on the audit of the Fund to the Prime Minister who must table the report in the National Assembly within 60 days, if the National Assembly is in session, or, if it is not in session, within 30 days after commencement of its next session.
- (4) Any money of the Fund which is not required for immediate use may be invested as the Prime Minister, with the concurrence of the Minister responsible for finance direct.
- (5) Any unexpended balance in the Fund at the end of any financial year must be carried forward as a credit in the Fund to the ensuing financial year.

Exemption from payment of tax and other charges and other related matters

- 52.** (1) No tax or charge on income or transfer or stamp duty imposed by or under any law is payable by the Fund.
- (2) Donations received in kind, materials and equipment donated to the Fund during a state of disaster and to facilitate disaster response from a charitable or philanthropic organisation, development partner or other stakeholder in disaster risk management approved by the Prime Minister are exempt from customs excise duty.
- (3) The Prime Minister in consultation with the Minister responsible for-
- (a) immigration must facilitate the entry and operation of international relief personnel and experts, including the expeditious granting of visas and waiver of work permits for relief personnel and experts;
 - (b) finance must facilitate reduced and simplified customs procedures, exemption from duties, taxes and charges for donations of equipment and materials, including food, made during disaster situations including possessions of relief personnel; and
 - (c) transport must facilitate transportation overflight and similar measures.

**PART VI
GENERAL****Application of other laws**

- 53.** Subject to section 56, the provisions of this Act apply without prejudice to the provisions of any law in force in Namibia regarding disaster risk management, emergency situations or civil defence or protection except that if there is any inconsistency between that other law and the provisions of this Act the provisions of this Act prevail.

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012****Co-operation agreements**

54. (1) The Prime Minister may enter into any agreement with any entity or person within or outside Namibia on any matter relating to disaster risk management if the objectives of that entity or person are consistent with the objectives of this Act.

(2) An agreement referred to in subsection (1) must be in accordance with law and may contain such matters as may be prescribed.

(3) An entity or person referred to in subsection (1) is subject to and must-

(a) respect the sovereignty of Namibia;

(b) obey local laws;

(c) cooperate with authorities;

(d) abstain from political or commercial activities; and

(e) ensure that the assistance given is both appropriate to the assessed needs and compliant with domestic quality, health and other standards.

Training

55. (1) The Prime Minister may, after consultation with the Committee, establish, maintain or control an institution for the training of persons in connection with any matter referred to in this Act or he or she may, on such conditions as he or she may, either generally or specifically, determine, recognise any institution established, maintained or controlled by any other person as an institution for such training.

(2) The conditions in regard to admission to, the nature and extent of the training at and all matters pertaining to discipline, supervision, control and management in an institution established, maintained or controlled by the Prime Minister in terms of subsection (1), will be as prescribed.

(3) A person who qualifies as a volunteer in terms of section 19 may voluntarily offer himself or herself to undergo training at an institution provided for in subsection (1), in connection with any matter as may be prescribed and to render related services.

(4) The manner in which any person contemplated in subsection (3) is called up for the training or service referred to in that subsection, the conditions of training and service and all other matters pertaining to it must be as prescribed.

Offences and penalties

56. (1) Any person who -

(a) hinders, obstructs or resists an authorised officer or any other person in the exercise or performance of that authorised officer's or other person's powers, functions or duties in terms of the provisions of this Act;

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (b) by words, conduct or action, falsely represents himself or herself to be a person employed in terms of the provisions of this Act;
- (c) without reasonable cause, fails to comply with any lawful direction or order given in terms of this Act; or
- (d) when required or requested to give information under this Act –
 - (i) fails or refuses, without reasonable cause, to give such information; or
 - (ii) gives false information knowing it to be false;

commits an offence and liable on conviction to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years, or to both such fine and imprisonment.

- (2) Any fine payable in terms of this section is for the benefit of the Fund.

Regulations

57. (1) The Prime Minister may, on the recommendation of the Committee, make regulations not inconsistent with the provisions of this Act, in respect of any matter which is in terms of this Act required or permitted to be prescribed, and generally relating to any matter which he or she deems necessary or expedient to prescribe in order that the objectives of this Act may be achieved.

(2) Without derogating from the generality of subsection (1), regulations made under that subsection may provide-

- (a) generally for regulating disaster risk management matters;
- (b) for the procedures to be adopted with respect to any disaster occurring in Namibia, including any investigation relating to it, and the regulations may contain provisions -
 - (i) requiring that notice be given of a disaster or emergency at such times, in a manner and by persons specified in the regulations;
 - (ii) applying, without modification, for the purpose of investigations held with respect to accidents any of the provisions of any other enactment relating to investigations in cases of disaster;
 - (iii) prohibiting, pending investigation, access to or interference in the area where a disaster has occurred, and authorising any person, so far as may be necessary for the purposes of an investigation, to have access to, examine, remove, take measures for the preservation of, or otherwise deal with, any such area;
- (c) for establishing the objectives and provisions, directives, codes of practice and guidelines relating to disaster preparedness and response issues;

Act No. 10, 2012**DISASTER RISK MANAGEMENT ACT, 2012**

- (d) for establishing the system and requirements for disaster risk management programmes and planning; and
- (e) for penalties of an administrative nature.

(3) Regulations made in terms of subsection (1) or (2) may provide penalties for the contravention except that no penalty may exceed the penalties contemplated in section 56 and any fine payable under the regulations is for the benefit of the Fund.

Application of Act

58. Unless otherwise provided for in any law regulating diplomatic privileges and immunities in Namibia, the provisions of this Act do not apply to or in respect of –

- (a) any person entitled to diplomatic immunity in Namibia; or
- (b) land or other property, including land or other property which is leased, by a person referred to in paragraph (a), or of the government of any such person.

Repeals and savings

59. (1) Subject to subsection (2) and (3), the Civil Defence Proclamation, 1978 (Proclamation No. AG 54 of 1978) and the Civil Defence Ordinance, 1979 (Ordinance No. 3 of 1979), are repealed.

(2) The repeal referred to in subsection (1) does not affect anything done in terms of the repealed law and any such thing, including any regulation, rule or code of conduct made in terms of the repealed law remains valid until repealed.

(3) Subject to the provisions of this Act, anything done under a provision of the repealed law and which could have been done under a corresponding provision of this Act, is deemed to have been done under such corresponding provision of this Act.

Short title and commencement

60. (1) This Act is called the Disaster Risk Management Act, 2012 and it comes into operation on a date determined by the Prime Minister by notice in the *Gazette*.

(2) Different dates may be determined under subsection (1) in respect of different provisions of this Act.

(3) A reference in this Act to the commencement of this Act must be construed as a reference to the date determined under subsection (1).
