
ACT NO. 2 OF 1997

Disaster Management Act 1997
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ACT NO. 2 OF 1997

Disaster Management Act 1997

An Act to establish the Disaster Management Authority; to regulate its powers and functions and to make provision with respect to emergencies arising out of disasters including prevention, mitigation, preparedness, response and recovery measures for the protection of life and property from the effects of disasters; and to vest responsibility for disaster management jointly and separately with the Disaster Management Authority and the District Secretaries; and for related matters.

Enacted by the Parliament of Lesotho

**Part I
Preliminary**

Short title and commencement

1. This Act may be cited as the Disaster Management Act, 1997 and it shall come into operation on the date of its publication in the Gazette.

Interpretation

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

- “appointed member” means a member of the Board appointed by the Minister;
- “Authority” means the Disaster Management Authority established under section 11 of this Act;
- “Board” means the Board of Directors of the Disaster Management Authority established under section 14 of this Act;
- “Chief Executive” means the Chief Executive of the Disaster Management Authority appointed under section 21 of this Act;
- “disaster” means a progressive or sudden, widespread or localised, natural or man-made event including not only prevalent drought but also heavy snowfalls, severe frosts, hailstorms, tornadoes, landslides, mudslides, floods, serious widespread fires and major air or road traffic accidents;
- “disaster management” means a continuous and dynamic multi-sectoral, multi-disciplinary process of planning which seeks, by the sys-

tematic study and analysis of disasters, to improve measures relating to prevention, mitigation, emergency preparedness, response and post-disaster recovery;

“emergency” means any occasion, instance or event for which, in the determination of the Prime Minister, exceptional assistance from the government is needed to supplement national, district, community or individual actions to save lives, protect property and public health and safety or to prevent or mitigate the threat of a catastrophe or extreme hazard in any part of Lesotho;

“fund” means the Disaster Management Fund referred to in section 34 of this Act;

“Minister” means the Minister responsible for the administration of this Act;

“mitigation” means measures aimed at reducing the impact of a natural or man-made disaster on the nation or the community;

“preparedness” means measures including the preparation of viable disaster relief plans, maintenance of resources and training of personnel undertaken by the government, non-governmental organisations, communities and individuals to mobilise, organise and provide relief measures required to deal with an impending or current disaster;

“prevention” means measures aimed at stopping a disaster from occurring or preventing such an occurrence having harmful effects on communities;

“recovery” means a process by which people or communities are assisted to return to their proper level of livelihood following a disaster;

“Regulations” means regulations made under section 48 of this Act;

“response” means measures undertaken immediately prior to or during a disaster-induced emergency in order to bring relief of people, communities or enterprises affected by the disaster;

“Task Force” means the National Disaster Relief Force established under section 8 of this Act.

Part II

Declaration of State of Disaster

Declaration of state of disaster

3. (1) If at any time it appears to the Prime Minister, on the advice of the Board, that any disaster in any area is of such a nature and extent that

exceptional measures are necessary to assist and protect the public of such area or that circumstances are likely to arise making such measures necessary, he may declare that with effect from a date specified by him in such declaration, a state of disaster exists within the area defined in such declaration and such declaration shall be published in the Gazette.

(2) The declaration of a state of disaster shall remain in force for a specific period as set out in the declaration and may be extended accordingly.

Emergency powers

4. In addition to the general emergency powers set out in the Emergency Powers Order 1988¹, the Minister shall, during a state of disaster, have the following powers-

- (a) to suspend the provisions of any regulatory statute prescribing the procedures for conduct of government business or the orders, rules or regulations of any government agency, if compliance with the provisions of any statute, order, rule or regulation would in any way prevent, hinder, or delay necessary action in coping with the disaster-induced emergency;
- (b) to utilise all available resources of the Government including stores, equipment, vehicles and facilities as reasonably necessary to cope with an emergency;
- (c) to transfer personnel or functions of Government departments and agencies or units thereof for the purpose of performing or facilitating emergency services;
- (d) to implement the relevant provisions of the National Disaster Management Plan to meet emergency requirements;
- (e) to mobilise strategic reserves of commodities and equipment and other resources;
- (f) to have access to and utilisation of the Lesotho Defence Force and Royal Lesotho Mounted Police personnel, vehicles, equipment and radio communications, as well as military aircraft;

- (g) to direct and compel the evacuation of all or part of the population from any disaster-stricken or threatened area if it is deemed that such an action is necessary for the preservation of life and move them to temporary shelter elsewhere where adequate facilities exist for their livelihood;
- (h) to prescribe appropriate routes, modes of transportation and destination in connection with evacuation;
- (i) to control in-coming and out-going traffic to and from a disaster area, the movement of persons within the area and the occupancy of premises therein, making provision for the availability and use of temporary emergency housing;
- (j) to suspend or limit the sale, dispensing or transportation of alcoholic beverages, firearms and explosives;
- (k) to step up the provision of early warning and other information required for preparing for or dealing with a disaster;
- (l) to requisition buildings, vehicles and equipment on the charge of central and local government institutions needed for emergency purposes;
- (m) to take all necessary measures in order to prevent, alleviate, contain and minimise the effects of disasters;
- (n) to make post-disaster reconstruction, rehabilitation and recovery plans;
- (o) to provide assistance to District Secretaries and District Disaster Management Teams;
- (p) to delegate appropriate powers and responsibilities to District Secretaries and monitor their effective implementation;
- (q) to impose and enforce restrictions on the supply and usage of water in circumstances of severe prolonged droughts; and
- (r) to prepare an appeal for donor assistance and to receive, accept

and account for any donations that may be given for the functions of the Authority.

Part III Disaster Management

Disaster Management Plan

5. (1) The Authority shall prepare a National Disaster Management Plan which the Minister shall submit to the Cabinet for approval. The plan shall cover requirements for disaster management including mitigation, preparedness, response and recovery measures.

(2) The National Disaster Management Plan shall, as far as possible, be integrated with National Development Plans and shall be supported by a Disaster Management Manual containing detailed responsibilities and procedures on disaster management.

(3) The National Disaster Management Plan and the Disaster Management Manual shall be reviewed and updated by the Chief Executive once a year or as necessary, particularly at the end of a state of disaster, and the Chief Executive shall recommend any amendments to the Board which shall then propose the amendments to the Cabinet for approval.

(4) The Chief Executive shall prepare embryo Disaster Relief Plans at national level and each District Secretary shall prepare such plans for the district concerned.

(5) The Lesotho Defence Force and the Royal Lesotho Mounted Police shall prepare their own plans to provide assistance to the civil authorities or the civilian population. These plans shall be based on the National Disaster Management Plan and shall be incorporated in the plan referred to in subsection (1) as appropriate.

Disaster Relief Plans

6. Upon the declaration of a state of disaster-

- (a) the Chief Executive shall prepare an appropriate National Disaster Relief Plan and, following its agreement by the Board

and its approval by the Cabinet, shall implement and maintain that plan;

- (b) each District Secretary shall prepare an appropriate District Disaster Relief Plan for the district concerned and, following its approval by the Chief Executive, shall implement and maintain that plan.

Post-Disaster Reconstruction, Rehabilitation and Recovery Plan

7. During a state of disaster, the Chief Executive shall prepare a Post-Disaster Reconstruction, Rehabilitation and Recovery Plan and, following its agreement by the Board and its approval by the Cabinet, shall implement and maintain that plan at national and district level as appropriate.

Part IV

National Disaster Relief Task Force

Establishment of National Disaster Relief Task Force

8. (1) Upon the declaration of a state of disaster and for its duration, the Prime Minister shall establish a National Disaster Relief Task Force which shall consist of Ministers directly involved with that disaster.

(2) The Prime Minister shall cause the membership of the Task Force to be published in the Gazette.

Functions of the Task Force

9. The Task Force shall-

- (a) provide policy guidelines to the Authority;
- (b) mobilise funds, manpower and other resources required to implement the National Disaster Relief Plan;
- (c) supervise and monitor National and District Disaster Relief Plans;
- (d) initiate the creation of appropriate institutional structures to support the Disaster Relief Plans;
- (e) approve requests for donor assistance.

Meetings of the Task Force

10. (1) The Task Force shall meet as often as its business requires and especially so during a state of disaster.
- (2) The Task Force may regulate its own procedure at its meetings.

Part V Disaster Management Authority

Establishment of Disaster Management Authority

11. (1) There is established a Disaster Management Authority which shall consist of a Chief Executive, a Deputy Chief Executive and such other officers as may be appointed.
- (2) The Authority shall be a public office, and accordingly, the laws governing the Public Service shall apply to the Authority and its officers.
- (3) Any other staff required for the purpose of the Authority shall be temporarily employed staff or serving members of the Lesotho Defence Force, the Royal Lesotho Mounted Police or volunteers.

Working groups

12. (1) The Authority shall have the following 6 permanently established working groups-
 - (a) the Executive Group;
 - (b) the Training Group;
 - (c) the Water and Sanitation Group;
 - (d) the Health and Nutrition Group;
 - (e) the Food and Logistics Group; and
 - (f) the Agriculture Group.

(2) The working groups shall consist of senior officials of the Authority and senior representatives of central government ministries and units as well as members from the Lesotho Defence Force, Royal Lesotho Mounted Police, Lesotho Council of Non-Governmental Organisations, Non-Governmental Organisations and other agencies directly involved with disaster

management.

(3) The Minister shall appoint the members of the working groups and cause their membership to be published in the Gazette.

(4) The working groups shall meet at more frequent intervals during an emergency than in times of non-emergency, but at least 4 times in each financial year.

(5) The terms of reference and composition of the working groups shall be as provided in the Regulations.

Functions of the Authority

13. The Authority shall-

- (a) act as the central planning, coordinating and monitoring institution for disaster management and post-disaster recovery;
- (b) brief the Board and the National Disaster Relief Task Force from time to time on progress and major problems in disaster management;
- (c) warn the public of an approaching disaster and predict its effects on the country;
- (d) maintain a data collection and dissemination system, and national strategic reserves of essential commodities and equipment for immediate disaster relief;
- (e) formulate disaster mitigation, preparedness and response strategies and action plans to meet all foreseeable requirements in consultation with central and local government, non-government organisations and donor agencies;
- (f) prepare and update the National Disaster Management Plan and the supporting Disaster Management Manual;
- (g) hold in readiness a series of National Disaster Relief Plans to meet any likely disaster;
- (h) develop and sustain viable, effective structures and capacities at central government level and within districts in case of a disaster;
- (i) create and maintain a national cadre of trained and

- (j) qualified personnel for disaster management; arrange external training for the staff of government, non-governmental organisations and other local agencies which are directly involved with disaster management;
- (k) promote general education on disaster management, emergency plans and relief measures;
- (l) promote public awareness campaigns on disaster at national, district and community levels;
- (m) conduct public relations and media briefing on disaster related programmes, progress and problems;
- (n) take all necessary measures in order to prevent, alleviate, contain and minimise the effects of disasters;
- (o) receive, accept and account for any donations that may be given for the functions of the Authority;
- (p) make post-disaster reconstruction, rehabilitation and recovery plans;
- (q) provide assistance to District Secretaries and District Disaster Management Teams; and
- (r) delegate appropriate powers and responsibilities to District Secretaries and monitor their effective implementation.

The Board

14. (1) The Authority shall be managed and controlled by a Board of Directors which shall consist of-

- (a) the following member ex-officio-
 - (i) the Government Secretary who shall be Chairman;
 - (ii) the Principal Secretary (Economics), Prime Minister's office;
 - (iii) the Principal Secretary responsible for planning;
 - (iv) the Principal Secretary responsible for finance;
 - (v) the Principal Secretary responsible for agriculture;
 - (vi) the Principal Secretary responsible for defence;

- (vii) the Principal Secretary responsible for health and social welfare;
 - (viii) the Principal Secretary responsible for home affairs;
 - (ix) the Principal Secretary responsible for information and broadcasting;
 - (x) the Principal Secretary responsible for local government;
 - (xi) the Principal Secretary responsible for natural resources; and
 - (xii) the Chief Executive who shall be Secretary;
- (b) the following members to be appointed by the Minister-
- (i) 3 representatives of non-governmental organisations on the recommendation of non-governmental organisations themselves; and
 - (ii) 2 representatives of the private sector who have wide knowledge and experience of disaster management.

(2) The Minister shall cause notice of the composition of the Board to be published in the Gazette.

Functions of the Board

* 15. The Board shall-

- (a) advise the Minister on disaster management policy;
- (b) advise the Prime Minister, through the Minister, on the requirements for and the timing of a declaration of a disaster-induced emergency in accordance with the Constitution and to declare the country, any district or part thereof to be a disaster area; and
- (c) ensure that funds are available to meet disaster related and management expenditures.

Termination of appointment

16. The Minister shall terminate the appointment of an appointed member if that member-

- (a) has been declared insolvent or has made an arrangement with his creditors;
- (b) is incapacitated by physical or mental illness;
- (c) has been convicted of an offence involving fraud or dishonesty;
- (d) is otherwise unable or is, in the opinion of the Minister, unfit to discharge the functions of a member or is unsuitable to continue as a member; or
- (e) has been absent from 3 consecutive meetings of the Board without the permission of the Chairman.

Tenure of office

17. (1) Every appointed member of the Board shall, unless he vacates office earlier by death, resignation or removal, hold office for 2 years and shall be eligible for re-appointment.

(2) Every ex-officio member of the Board shall hold office so long as he holds the post by virtue of which he was so appointed.

(3) An appointed member of the Board may resign his office of appointment by writing under his hand addressed to the Minister.

(4) If a member of the Board is for any reason unable to exercise the powers or perform the duties of his office, the Minister may, subject to section 14 appoint another person to hold his office during the absence or incapacity of that member.

Meetings of the Board

18. (1) The Board shall meet as often as the business of the Authority may require, but in any case, not less than 4 times in each financial year.

(2) The Chairman shall preside at all meetings of the Board.

(3) Any question before the Board at a meeting shall be decided by the majority of votes of the members present and voting.

(4) The quorum at a meeting of the Board shall be 8 members.

(5) A presiding member shall have a deliberative vote and in the event of an equality of votes, he shall have a casting vote.

(6) The Board may co-opt any person to attend any meeting of the Board for the purpose of assisting or advising the Board, but such co-opted person shall not vote.

(7) A special meeting of the Board may be called by the Chairman.

(8) The Secretary shall prepare the agenda and call all meetings for which 14 days notice shall be given, except for the special meeting under subsection (7).

(9) The validity of any act or proceedings of the Board shall not be affected by any vacancy among the members or by any defect subsequently discovered in the appointment of a member or by reason that some person who was not entitled to do so took part in the proceedings.

(10) The Secretary shall distribute the minutes of meetings, approved by the Chairman, as soon as possible after each meeting and before the next meeting and the Chairman of the Board shall confirm the minutes of each meeting at a subsequent meeting.

(11) Subject to this Act, the Board may make provision for the following:

(a) the proper conduct of business of meetings of the Board;

(b) the management and administration of the Authority generally.

(12) Subject to this section, the Board may regulate its own procedure.

Expenses and allowances

19. An appointed member of the Board shall be paid such expenses and allowances as the Board may recommend and the Minister may determine with the concurrence of the Minister responsible for finance.

Disclosure of interest

20. (1) Where a member of the Board is in any way directly or indirectly interested in a transaction or project of the Authority, he shall disclose the nature of his interest at a meeting of the Board; the disclosure shall be recorded in the minutes of the Board and the member shall not take part in any deliberations or decision of the Board with respect to that transaction or project, nor shall he sit on any committee appointed to advise the Board with respect to that transaction or project.

(2) A member of the Board who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding M 10,000 or to imprisonment for a period not exceeding 5 years and shall, upon conviction, cease to be a member of the Board.

Chief Executive

21. (1) There shall be a Chief Executive of the Authority appointed by the Public Service Commission.

(2) The Chief Executive shall be responsible for the execution of the policy of the Authority and the transaction of its day-to-day business and, without derogating from the generality of this section, he shall also-

- ~~*~~ (a) act, during an emergency, as the National Relief Coordinator;
- (b) maintain an adequate national disaster management structure and capacity;
- (c) formulate disaster mitigation, preparedness, response and recovery strategies, disaster management plans and disaster relief plans to meet all foreseeable requirements in consultation with other relevant institutions;
- (d) direct, coordinate, supervise and monitor the work of the Director of the Food Management Unit, the

- Director of the Food and Nutrition Coordinating Office and District Secretaries in respect of their disaster management, disaster relief and post-disaster roles; and
- (e) carry out any other functions as may be imposed upon him by the Authority, the Board or the Minister.

Deputy Chief Executive

22. There shall be a Deputy Chief Executive who shall act as Chief Executive during the absence or incapacity of the Chief Executive and during an emergency, shall act as the Deputy National Disaster Relief Coordinator.

Part VI

District and Village Disaster Management Teams

District Disaster Management Team

23. (1) Each district shall establish a District Disaster Management Team whose members shall be appointed by the District Secretary.
- (2) The District Disaster Management Team shall consist of-
- (a) the District Secretary who shall be Chairman;
 - (b) the District Engineer (Urban and Rural Water Supply);
 - (c) the District Medical Officer;
 - (d) the District Agriculture Officer;
 - (e) the District Rural Development Officer;
 - (f) the Manager of the District Food Management Unit Stores;
 - (g) the District Non-Governmental Organisations Coordinator;
 - (h) the District Supplementary Feeding Coordinator;
 - (i) a representative of the Lesotho Defence Force;
 - (j) a representative of the Royal Lesotho Mounted Police;
 - (k) 2 representatives of churches;
 - (l) 2 representatives of schools;
 - (m) the Chairperson, District Development Council;
 - (n) the Principal Chief; and
 - (o) the District Disaster Management Officer who shall be Secretary.

(3) A District Disaster Management Team may co-opt any person but that person shall not vote at its meetings.

(4) The District Disaster Management Team shall work in conjunction with the District Development Council in order to-

- (a) keep under review all multi-sectoral disaster management plans;
- (b) monitor all multi-sectoral disaster relief and post-disaster recovery activities carried out in the district.

(5) The District Disaster Management Team shall meet as often as its business requires and at least 12 times in a year.

Functions of a District Disaster Management Team

24. A District Disaster Management Team shall-

- (a) assist the District Secretary in discharging responsibilities relating to disaster management in the district concerned;
- (b) assess particular hazards facing the district;
- (c) liaise and cooperate with the Authority in ensuring that development plans for the district take into account hazards facing or likely to face the district;
- (d) prepare emergency relief plans for the district in accordance with the guidelines laid down by the Authority and supervise the state of preparedness for emergencies in the district;
- (e) coordinate stockpiling of relief supplies for relief operations in the district;
- (f) receive and decide on all applications for relief assistance in the district;
- (g) promote public awareness of disasters and measures to be taken to prevent or mitigate them in the district; and
- (h) organise training programmes for relief workers to practice the implementation of District Disaster Relief Plans.

Powers of a District Disaster Management Team

25. A District Disaster Management Team shall have all necessary powers for the efficient performance of its functions under this Act.

Village Disaster Management Team

26. (1) Each community or a cluster of communities in a district shall establish a Village Disaster Management Team.

(2) The composition of a Village Disaster Management Team shall be jointly determined by the District Secretary and the local Village Development Council taking into consideration the guidelines provided in the National Disaster Management Plan and the Disaster Management Manual referred to in section 5 of this Act.

(3) The functions of the Village Disaster Management Team shall be laid down in the by-laws made by the District Secretary in accordance with section 49 of this Act.

Volunteers

27. (1) Any person, private enterprise, non-governmental organisation, charitable or religious organisation may, by written application to the District Secretary of the district concerned, volunteer to-

- (a) serve as a member of a District or Village Disaster Management Team established in terms of sections 23 and 26 of this Act;
- (b) provide or assist in the provision of any disaster management service within any area;
- (c) perform within any area any function connected with disaster management as agreed upon by the District or Village Disaster Management Teams.

(2) The District Secretary may, after reviewing the application, cause the name of the volunteer to be entered in the register kept under the terms of subsection (5)

(3) A volunteer may resign upon giving 30 days' notice to the

District Secretary.

(4) A volunteer shall comply with every reasonable order or instruction given to him by the District Secretary for the area concerned or by any person authorised thereto by the District Secretary.

(5) Every District Secretary shall maintain a register of all volunteers in the area within which he may exercise his powers.

District Disaster Relief Co-ordinator

28. The District Secretary of each district shall, during an emergency, act as the District Disaster Relief Coordinator for the district for which he has been appointed.

Powers and duties of a District Secretary

29. (1) Subject to the provisions of this Act, a District Secretary shall-

- (a) take any measures as, in his opinion, are necessary to deal with a state of a disaster in the district concerned: Provided that such measures shall not deprive any person of his life or personal liberty;
- (b) establish, maintain and control every disaster management organisation or every organisation involved with disaster management in the district;
- (c) provide, operate and coordinate all disaster management services and activities within the district; and
- (d) report and be responsible to the Chief Executive on the progress and problems in respect of disaster management, disaster relief and post-disaster roles within the district as frequently as the Chief Executive may stipulate.

(2) During an emergency the District Secretary shall set up a district operations room for providing a working base for the District Disaster Management Team for efficient relief operations within the district.

(3) The District Secretary shall exercise his powers in terms of this Act in cooperation with the Authority, the Lesotho Defence Force and the

Royal Lesotho Mounted Police within the district.

Orders

30. (1) Subject to the provisions of this Act, a District Secretary may, in the district for which he is responsible, by order in writing, direct any person-

- (a) to supply him with any relevant information concerning the existence and availability of any service, facility or asset whatsoever which could be used for or in connection with disaster management 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, and equipment for use during a disaster-induced emergency as he may reasonably be expected to maintain; and
- (c) to perform any work or render any disaster management service which, as a result of a disaster, is necessary for the purpose of dealing with the situation.

(2) No order shall be given in terms of-

- (a) sub-section (1)(a) to a person in the employment of the government requiring such person to supply information acquired by him in the course of his duty as such an employee;
- (b) sub-section (1)(b) requiring the government to maintain any stocks referred to in that paragraph.

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

(4) In any appeal in terms of subsection (3), the Minister may, after inviting the District Secretary concerned to submit written representations in the matter and considering any representations so submitted, confirm, vary or set aside the order appealed against or give such other directions in the matter as he thinks appropriate.

Delegation of powers or responsibilities

31. (1) A District Secretary in the capacity of a District Disaster Relief Co-ordinator or otherwise may, with approval of the Chief Executive, delegate all or any of his powers or responsibilities to a member of the District Disaster Management Team.

(2) The delegation of any power by a District Secretary in the capacity of a District Disaster Relief Coordinator in terms of subsection (1) shall not divest him of that power or responsibility, and he may at any time revoke or amend any order given by any member of the District Disaster Management Team in the exercise of that power or responsibility, save that, where the District Secretary has been directed by the Chief Executive to delegate any powers or responsibilities to a member or members of the District Disaster Management Team, he shall not revoke or amend an order given by any such team except with the consent of the Chief Executive.

District Disaster Management Officer

32. There shall be a District Disaster Management Officer in each district who shall be appointed by the Public Service Commission and who shall report and be responsible directly to the District Secretary.

Functions of District Disaster Management Officer

33. The District Disaster Management Officer shall provide a working link between the District Secretary, the District Disaster Management Team, the Village Disaster Management Teams in the district and the Authority, and shall assist the District Secretary acting as the District Disaster Relief Coordinator or in any other role in relation to-

- (a) district and community disaster management , disaster relief and post disaster recovery tasks;
- (b) preparation of reports, undertaking local training and conducting public awareness campaigns; and
- (c) provision of input to national plans for managing disasters.

Part VII Finances

Fund

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

(2) The Accountant General shall maintain a separate account of the fund in which he shall record the receipts and disbursements referred to in sections 35 and 36.

(3) The Chief Executive shall maintain accounts in which he shall record receipts into the fund and disbursements from the fund.

(4) In maintaining the accounts referred to in subsection (3) the Chief Executive shall observe the provisions of the Financial Regulations and other applicable laws governing the receipt, control and disbursement of public funds.

Receipts

35. (1) There shall be paid into the fund-

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

Disbursements

36. There shall be paid out of the fund-

- (a) moneys required for the discharge of the liabilities of the Authority;
- (b) moneys required to defray expenses incurred by the Authority in the exercise and discharge of its functions; and
- (c) any other expenses as may be approved by the Minister.

Donations

37. (1) Donations shall be taken on charge and accounted for in accordance with stores regulations and other applicable regulations governing the receipts, issue and control of public stores, equipment, plants, vehicles, machinery, buildings and related matters.

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

Financial year

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

Annual budget

39. The Chief Executive shall prepare and present to the Board for approval, in advance of each financial year, a budget for that year, indicating anticipated revenues, allocation of the revenues and expenditures.

Audit

40. (1) The accounts of the Authority shall be audited by the Auditor-General or auditors appointed by him.

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

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

Reports

41. (1) As soon as possible after the close of the financial year, but not later than three months thereafter, the Board shall present to the Minister an annual report and audited accounts of the Authority comprising-

- (a) a report on the activities of the Authority during the preceding year;
- (b) a balance sheet showing the assets and liabilities of the Authority at the close of the financial year;
- (c) a statement showing the receipt and disposal of any stores donated or purchased during the year.

(2) A copy of the annual report and audited accounts shall be submitted by the Minister to the Cabinet at the earliest opportunity.

Transfer

42. Upon the establishment of the fund referred to in section 34, all monies in the National Disaster Relief Fund established by the Finance (National Drought Disaster Relief Fund) Notice, 1995², shall be transferred to that fund.

Part VIII Miscellaneous

Government assistance

43. (1) Where a state of disaster has in terms of section 3 been declared to exist in any area of Lesotho and the Minister considers that the District for that area is unable to provide adequate disaster management services to deal with the disaster, the Minister may after consultation with the District Secretary concerned-

- (a) by notice published in such manner as he thinks fit
 - (i) to such extent and for such purposes as he may specify in the notice, take over any power or duty conferred upon the District Secretary in terms on this Act for the area concerned; and
 - (ii) confer or impose upon any person or authority,

any power or duty conferred or imposed upon a District Disaster Relief Coordinator or other person by or in terms of this Act:

Provided that no such notice has been made in any manner other than by publication in the Gazette;

- (b) direct any person employed by the government to render such assistance as the Minister may direct to any District Disaster Relief Coordinator or other person upon whom a power or duty is conferred by or under this Act:

Provided that the Minister shall not confer or impose any such power or duty upon or give such direction to-

- (i) a police officer, without the consent of the Commissioner of Police; or
- (ii) a member of the Lesotho Defence Force, without the consent of the commander of the branch of the Lesotho Defence force; or
- (iii) a prison officer, without the consent of the Director of Prisons; or
- (iv) an employee of government, without the consent of the Minister responsible for the Ministry in which he is employed.

(2) The Minister may direct any person employed by the government-

- (a) to evaluate from time to time the preparedness of district authorities within Lesotho in matters relating to disaster management and to report thereon to the Minister;
- (b) to advice district authorities in matters relating to disaster management;
- (c) in collaboration with the District Secretary concerned, to activate disaster management services within any area and to coordinate all activities related to disaster management therein:

Provided that the Minister shall not give any direction in terms of this subsection to-

- (i) a police officer, without the consent of the Commissioner of Police; or
- (ii) a member of the Lesotho Defence Force without the consent of the commander of the branch of the Lesotho Defence Force concerned; or
- (iii) a prison officer, without the consent of the Director of Prisons; or
- (iv) an employee of the government without the consent of the Minister responsible for the Ministry in which he is employed.

Reimbursement and indemnification

44. The District Secretary shall reimburse and indemnify every volunteer and other person employed in a disaster management organisation established and maintained by him for any reasonable expense or liability incurred by such volunteer or other person as a result of-

- (a) carrying out any order or performing any disaster management service in terms of this Act; or
- (b) making available for the purpose of disaster management any equipment, land, building or other property.

Disability benefits

45. (1) The provisions of any enactment relating to the disability payment of compensation on the death of or injury to officers in the Public Service shall, *mutatis mutandis*, apply in relation to a volunteer or any other person performing any duty in terms of this Act as though he was an officer in the Public Service.

(2) Any compensation payable in terms of subsection (1) shall be paid from the Fund, which is hereby appropriated for the purpose.

Indemnity

46. Without prejudice to any defence or limitation which may be available

in terms of any law, but subject to the provisions of this Act, no claim shall be made and no set-off shall operate against-

- (a) the Minister;
- (b) the members of the Board;
- (c) the officials of the Disaster Management Authority;
- (d) a District Secretary;
- (e) a volunteer; and
- (f) any person assigned duties by the Chief Executive or the District Secretary in terms of this Act,

in respect of loss or injury caused by or in the course of the exercise or performance or the purported exercise of any power conferred or duty imposed by this Act or an omission of exercise any such power or perform any such duty, unless the act or omission in question was unreasonable or negligent or was done in bad faith.

Offence and penalty

47. Any person who, without lawful excuse, fails to comply with an order or instruction given in terms of this Act, commits an offence and, on conviction, shall be liable to a fine not exceeding M10,000 or to imprisonment for a period not exceeding 5 years or both.

Regulations

48. The minister may make the Regulations for the proper implementation of the provisions of this Act.

By-laws

49. Subject to the provisions of this Act, a District Secretary within or outside his capacity of a District Disaster Relief Coordinator may make by-laws for carrying out the functions related to any disaster management activity in the district to which he is nominated.

Intent and purpose

50. If in the opinion of the Minister, through any error, accident or omission, anything required to be done in terms of this Act is omitted to be done or is not done in the manner or within the time determined therein, the Minister

may order all such steps to be taken as in his opinion may be necessary to rectify such error, accident or omission or he may validate anything which may have been irregularly done so that the intent and purpose of this Act shall be given effect to.

Repeals

51. The following Regulations are repealed-

- (a) the National Disaster Relief Fund Regulations, 1977³; and
- (b) the Finance (National Disaster Relief Fund) Regulations, 1995⁴.

NOTE

- 1. Order No. 4 of 1988.
- 2. Legal Notice No. 106 of 1977.
- 3. Legal Notice No. 6 of 1977.
- 4. Legal Notice No. 107 of 1995.

ACT NO. 3 OF 1997

Trading Enterprises (Amendment) Act, 1997

An Act to amend the Trading Enterprise Order 1993

Enacted by the Parliament of Lesotho

Short title and commencement

- 1. This Act may be cited as the Trading Enterprises (Amendment) Act 1997 and shall come into operation on the date of its publication in the Gazette.

Interpretation

- 2. Section 2 of the Principal Act is amended by inserting the following new definition in alphabetical order,

“transfer of technology” means the transfer of expertise, art and skill for purpose of promoting the quality of goods produced in Lesotho.